

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF HAWAII
3
4 UNITED STATES OF AMERICA,)
5 Plaintiff,)
6 vs.)
7 MICHAEL J. MISKE, JR.,)
8 Defendant.)
 _____)

9
10 TRANSCRIPT OF JURY TRIAL (DAY 50)
11 BEFORE THE HONORABLE DERRICK K. WATSON,
12 CHIEF UNITED STATES DISTRICT COURT JUDGE

13 APPEARANCES:

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300 Ala Moana Boulevard
Honolulu, Hawaii 96850

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with computer-aided transcription (CAT).

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1 April 15, 2024 8:38 a.m.

08:38AM 2 THE CLERK: Criminal Number 19-00099-DKW-KJM, United
08:38AM 3 States of America versus Michael J. Miske, Jr.

08:38AM 4 This case has been called for jury trial, day 50.

08:38AM 5 Counsel, please make your appearances for the record.

08:38AM 6 MR. INCIONG: Good morning, Your Honor. Mark Inciong,
08:38AM 7 Michael Nammar, KeAupuni, Akina and Aislinn Affinito with
08:38AM 8 Thomas Palmer and Kari Sherman. Good morning.

08:38AM 9 THE COURT: Good morning.

08:38AM 10 MR. KENNEDY: Good morning, Your Honor. Michael
08:38AM 11 Kennedy with Lynn Panagakos, Michael Miske, Ashley King, and
08:38AM 12 Josh Barry. Good morning to you all. Good morning to you.

08:38AM 13 THE COURT: Good morning. You may be seated. Good
08:38AM 14 morning to our 16 jurors. Mr. Smith, good morning. You're
08:38AM 15 back on the stand and I will remind you as I did on Friday that
08:38AM 16 although we won't swear you again, you still remain subject to
08:38AM 17 the same oath that you took at the first start of your
08:38AM 18 testimony. Do you understand that? All right. Mr. Nammar,
08:38AM 19 you may resume. We are at half a hundred, by the way.

08:38AM 20 JACOB SMITH,

08:38AM 21 (Having been previously sworn, resumed the stand.)

08:38AM 22 RESUMED DIRECT EXAMINATION

08:38AM 23 BY MR. NAMMAR:

08:38AM 24 Q Good morning, Mr. Smith.

08:38AM 25 A Good morning, Mr. Nammar.

08:39AM 1 MR. NAMMAR: Your Honor, can we show the witness only
08:39AM 2 1-957E as in echo from our 13th supplemental list? Can we play
08:40AM 3 it one more time?
08:40AM 4 (Video played.)
08:40AM 5 BY MR. NAMMAR:
08:40AM 6 Q Mr. Smith, do you recognize what's just been shown to you,
08:40AM 7 1-957E?
08:40AM 8 A Yes.
08:40AM 9 Q What is it?
08:40AM 10 A It was a picture of Chris Bourne.
08:40AM 11 Q Is it a video or a picture?
08:40AM 12 A It was a video.
08:40AM 13 Q Are you taking a video of someone else's phone here?
08:40AM 14 A Yes.
08:40AM 15 MR. NAMMAR: Your Honor, move to admit 1-957E as in
08:40AM 16 echo.
08:40AM 17 THE COURT: Any objection, counsel?
08:40AM 18 MR. KENNEDY: No objection.
08:40AM 19 THE COURT: 1-957E is admitted then. You may publish.
08:40AM 20 (Exhibit 1-957E was received in evidence.)
08:40AM 21 MR. NAMMAR: Thank you. Your Honor, can we also show
08:40AM 22 the witness -- before we publish this one, show the witness
08:40AM 23 1-957G as in golf from the 13th supplemental list.
08:40AM 24 (Video was played.)
08:40AM 25 BY MR. NAMMAR:

08:41AM 1 Q Mr. Smith do you recognize 1-957G?

08:41AM 2 A Yes.

08:41AM 3 Q What is it of?

08:41AM 4 A It's another video of Chris Bourne.

08:41AM 5 MR. NAMMAR: Your Honor, move to admit 1-957G.

08:41AM 6 THE COURT: Any objection to that one?

08:41AM 7 MR. KENNEDY: No objection.

08:41AM 8 THE COURT: 1-957G is then admitted without objection,
08:41AM 9 and you may put it up when you are ready.

08:41AM 10 (Exhibit 1-957G was received in evidence.)

08:41AM 11 MR. NAMMAR: Thank you. Could we also show the
08:41AM 12 witness only 1-957J from the 13th supplemental list.

08:41AM 13 (Video was played.)

08:41AM 14 BY MR. NAMMAR:

08:41AM 15 Q Mr. Smith do you recognize 1-957J?

08:41AM 16 A Yes.

08:41AM 17 Q What is it?

08:41AM 18 A It's a video of the gas truck outside of Chris Bourne's
08:41AM 19 house.

08:41AM 20 MR. NAMMAR: Your Honor, I move to admit 1-957J.

08:41AM 21 THE COURT: Any objection?

08:42AM 22 MR. KENNEDY: No objection.

08:42AM 23 THE COURT: 1-957J is admitted without objection, and
08:42AM 24 you may play it.

08:42AM 25 (Exhibit 1-957J was received in evidence.)

08:42AM 1 (Video was played.)

08:42AM 2 MR. NAMMAR: If we can publish now 1-957E, it has

08:42AM 3 sound. If we can publish with the sound.

08:42AM 4 (Video was played.)

08:42AM 5 BY MR. NAMMAR:

08:42AM 6 Q If we can play that one more time.

08:42AM 7 (Video was played.)

08:42AM 8 Can you tell the jury what is shown here?

08:42AM 9 A It's a video of me taking a video off Mike's phone of

08:42AM 10 Chris Bourne.

08:42AM 11 Q Do you recognize the person that's speaking on the video?

08:42AM 12 Do you recognize that voice?

08:42AM 13 A I'm not sure. I think it's me.

08:42AM 14 MR. NAMMAR: Can we publish 1-957G as in golf now.

08:42AM 15 THE COURT: Yes.

08:43AM 16 (Video was played.)

08:43AM 17 MR. NAMMAR: Play that one more time.

08:43AM 18 (Video was played.)

08:43AM 19 BY MR. NAMMAR:

08:43AM 20 Q What is shown here, Mr. Smith?

08:43AM 21 A It's another video taken of Chris Bourne.

08:43AM 22 Q Did you take this video?

08:43AM 23 A Yes.

08:43AM 24 Q Do you know whose phone is shown in this video that

08:43AM 25 you're --

08:43AM 1 A It's Mike's phone.

08:43AM 2 MR. NAMMAR: May we publish 1-957J?

08:43AM 3 THE COURT: Yes.

08:43AM 4 (Video was played.)

08:43AM 5 MR. NAMMAR: Could we play that one more time? Can we
08:43AM 6 rotate that?

08:44AM 7 (Video was played.)

08:44AM 8 BY MR. NAMMAR:

08:44AM 9 Q What is shown in 1-957J?

08:44AM 10 A That's another video of the gas truck outside Chris
08:44AM 11 Bourne's house.

08:44AM 12 Q And are you recording a phone again?

08:44AM 13 A Yes.

08:44AM 14 Q Do you know whose phone you are recording?

08:44AM 15 A Mike's phone.

08:44AM 16 MR. NAMMAR: Could we show the witness now only 1-957
08:44AM 17 from the original list.

08:44AM 18 THE COURT: Go ahead.

08:44AM 19 (Video was played.)

08:44AM 20 BY MR. NAMMAR:

08:44AM 21 Q We can scroll through. Do you recognize this as a video
08:45AM 22 report from your phone?

08:45AM 23 A Yes.

08:45AM 24 Q Does it have the same three videos that we just looked at?

08:45AM 25 A Yes.

08:45AM 1 MR. NAMMAR: Your Honor, I'd move to admit 1-957.

08:45AM 2 THE COURT: Any objection to that?

08:45AM 3 MR. KENNEDY: No objection.

08:45AM 4 THE COURT: 1-957 is admitted then without objection.

08:45AM 5 You may publish.

08:45AM 6 (Exhibit 1-957 was received in evidence.)

08:45AM 7 BY MR. NAMMAR:

08:45AM 8 Q If we could start with box 5 and zoom in on box 5.

08:45AM 9 Do you recognize the tiny thumbnail on the right-hand
08:45AM 10 side, Mr. Smith?

08:45AM 11 A Yes.

08:45AM 12 Q What is it?

08:45AM 13 A It's the video we just watched of Chris Bourne.

08:45AM 14 Q The creation date is at the bottom here, created on May 6,
08:45AM 15 2018; do you see that?

08:45AM 16 A Yes.

08:45AM 17 Q At around 6:43 p.m.; do you see that?

08:45AM 18 A Yes.

08:46AM 19 Q If we can go to box 7 now.

08:46AM 20 And the tiny thumbnail on the right-hand side, do you
08:46AM 21 recognize that?

08:46AM 22 A Yes.

08:46AM 23 Q What is that?

08:46AM 24 A That's the other video of Chris Bourne that we just
08:46AM 25 watched.

08:46AM 1 Q If we see the creation date, is it the same date -- around
08:46AM 2 the same date and time on May 6, 2018, as the one we just
08:46AM 3 looked at?

08:46AM 4 A Yes.

08:46AM 5 MR. NAMMAR: Your Honor, can we now publish 1-953
08:46AM 6 which is admitted yesterday from our original.

08:46AM 7 THE COURT: Go ahead.

08:46AM 8 BY MR. NAMMAR:

08:46AM 9 Q Page -- if we can go to page 409, and if we could zoom in
08:46AM 10 on the bottom message.

08:47AM 11 Do you see the date at the -- delivered date here?

08:47AM 12 A Yes.

08:47AM 13 Q May 6, 2018, at 8:31 p.m.?

08:47AM 14 A Yes.

08:47AM 15 Q Is that the same day from the videos we were just looking
08:47AM 16 at?

08:47AM 17 A Yes.

08:47AM 18 Q So is this "Bro, you guys still at the Bay?" Is this the
08:47AM 19 message you sent to Mr. Miske?

08:47AM 20 A Yes.

08:47AM 21 Q You told us before you commonly refer to him as bro?

08:47AM 22 A Yes.

08:47AM 23 Q And the Bay is what?

08:47AM 24 A The area where we used to hang out in Hawaii Kai.

08:47AM 25 Q If we go to the next message. Down. Sorry, page 410.

08:47AM 1 Response is from Mr. Miske is, "Yes, at the ramp now."

08:47AM 2 Do you see that?

08:47AM 3 A Yes.

08:47AM 4 Q Do you know what the ramp refers to?

08:47AM 5 A The boat ramp at the Bay.

08:47AM 6 Q Is that right by where you guys would hang out?

08:47AM 7 A Yes.

08:47AM 8 Q And then Mr. Miske says, "What's up?" Your response is,

08:48AM 9 "Can you tell Migo I left my keys in the back of their car?"

08:48AM 10 A Yes.

08:48AM 11 Q Who is Migo?

08:48AM 12 A Johnnie.

08:48AM 13 Q And response, "okay." And then you say, "Ask him for text
08:48AM 14 me if can, bro," and the response is "okay."

08:48AM 15 Do you see that?

08:48AM 16 A Yes.

08:48AM 17 Q This is a couple hours before the video that we just
08:48AM 18 looked at, correct?

08:48AM 19 A Yes.

08:48AM 20 Q Do you think you were at the Bay on May 6, 2018?

08:48AM 21 A Yes.

08:48AM 22 Q Hanging out with John Stancil and Mike Miske?

08:48AM 23 A Yes.

08:48AM 24 MR. NAMMAR: We can go back now, Your Honor, to 1-957.

08:49AM 25 THE COURT: Go ahead.

08:49AM 1 BY MR. NAMMAR:

08:49AM 2 Q Focus on box 11.

08:49AM 3 Do you recognize, Mr. Smith, the thumbnail on the
08:49AM 4 right-hand side?

08:49AM 5 A Yes.

08:49AM 6 Q Is that the from the video of the gas truck that we looked
08:49AM 7 at?

08:49AM 8 A Yes.

08:49AM 9 Q It has a creation date a little bit later in time now,
08:49AM 10 May 27, 2018.

08:49AM 11 Do you see that?

08:49AM 12 A Yes.

08:49AM 13 Q With the time of 4:41 p.m.; is that right?

08:49AM 14 A Yes.

08:49AM 15 Q And we talked about this last week, but do you recognize
08:49AM 16 the article of clothing that's in that video?

08:49AM 17 A Yes.

08:49AM 18 Q What is it?

08:49AM 19 A It was camouflage shorts I was wearing.

08:49AM 20 Q You recognize those as your shorts?

08:50AM 21 A Yes.

08:50AM 22 MR. NAMMAR: So if we can now go to 1-953 again, which
08:50AM 23 is from the original list.

08:50AM 24 THE COURT: Yes, go ahead.

08:50AM 25 BY MR. NAMMAR:

08:50AM 1 Q Thank you. Page 472. And start with the first message.

08:50AM 2 This is you in green. "Can you take me look at that thing

08:50AM 3 again?"

08:50AM 4 Do you see that?

08:50AM 5 A Yes.

08:50AM 6 Q And if we scroll down, Mr. Miske has a question mark. And

08:50AM 7 you say "member" as in remember?

08:50AM 8 A Yes.

08:50AM 9 Q Keep going down. Sorry, this is the wrong exchange that I

08:51AM 10 wanted to show. My apologies. If we can go to page 425.

08:51AM 11 Start with the second message.

08:51AM 12 Is this 5/27? Do you see the date there?

08:51AM 13 A Yes.

08:51AM 14 Q Is that the same date and time for the video that we just

08:51AM 15 looked at a couple of hours before?

08:51AM 16 A Yes.

08:51AM 17 Q And Mr. Miske says WYA. What does that stand for?

08:51AM 18 A "Where you at."

08:51AM 19 Q And if we scroll down, you tell him "home." Go to the

08:51AM 20 next page. Keep going down. "You all G." "All G," what does

08:52AM 21 all G mean?

08:52AM 22 A "All good."

08:52AM 23 Q Keep going down. "LMK," is that "let me know"?

08:52AM 24 A Yes.

08:52AM 25 Q "Let me know when you are around," Mr. Miske says. Keep

08:52AM 1 going down. "I stay town." What does that mean?

08:52AM 2 A I'm in town.

08:52AM 3 Q Keep going down. "HK" he responds. What does that mean?

08:52AM 4 A Hawaii Kai.

08:52AM 5 Q "What, come check me out."

08:52AM 6 Do you see that?

08:52AM 7 A Yes.

08:52AM 8 Q Keep going down. "If not too busy" is what you say. Keep

08:52AM 9 going down. "Call you if I come that way. Nothing important;

08:52AM 10 just update on a friend."

08:52AM 11 Do you see that?

08:52AM 12 A Yes.

08:52AM 13 Q Keep going down. You ask if it's good or bad and

08:53AM 14 Mr. Miske responds "not our friend. The one we drove around."

08:53AM 15 "Good."

08:53AM 16 Do you see that?

08:53AM 17 A Yes.

08:53AM 18 Q Who do you think he is referring to there?

08:53AM 19 A Chris Bourne.

08:53AM 20 Q Chris Bourne?

08:53AM 21 A Yes.

08:53AM 22 Q If we keep going, "Roger, bro." When you say -- when

08:53AM 23 Mr. Miske said in that last message "the one we drove around,"

08:53AM 24 why do you think that refers to Mr. Bourne?

08:53AM 25 A Because that's the one he drove me by his house.

08:53AM 1 Q Keep going down. You say "When is good to go see?"

08:53AM 2 Do you see that?

08:53AM 3 A Yes.

08:53AM 4 Q Keep going down. And Mr. Miske responds -- keep going

08:53AM 5 down -- "any time." And then "now."

08:53AM 6 Do you see that?

08:53AM 7 A Yes.

08:53AM 8 Q If we keep going down. He says "ramp." Do you see that?

08:54AM 9 A Yes.

08:54AM 10 Q What does that refer to?

08:54AM 11 A The boat ramp at the Bay.

08:54AM 12 Q The one you just talked about?

08:54AM 13 A Yes.

08:54AM 14 Q Keep going down. Keep going down. Keep going down.

08:54AM 15 You let him know you are coming from town here in this

08:54AM 16 message?

08:54AM 17 A Yes.

08:54AM 18 Q Keep going down. Keep going down. Okay, stop here.

08:54AM 19 Mr. Miske says, "K, meet you at the ramp." That's what you

08:54AM 20 told us is the ramp in Hawaii Kai?

08:54AM 21 A Yes.

08:54AM 22 Q And he says, "I'm in a piece of shit truck, silver."

08:54AM 23 What do you think that's referring to?

08:54AM 24 A That was the car he was in that day I met him.

08:55AM 25 Q Keep going down. Keep going down. Mr. Miske says, "Ramp

08:55AM 1 not Bay parking lot."

08:55AM 2 Do you see that?

08:55AM 3 A Yes.

08:55AM 4 Q What is that referring to?

08:55AM 5 A The boat ramp in the parking lot next to it, not the Bay
08:55AM 6 parking lot.

08:55AM 7 Q Keep going down. Telling him you're on your way here.
08:55AM 8 Telling him you are passing Kahala.

08:55AM 9 What does that refer to?

08:55AM 10 A Outside of Hawaii Kai area.

08:55AM 11 Q You're on your way here?

08:55AM 12 A Yes.

08:55AM 13 Q And keep going down. We can stop here. "Pulling up."

08:55AM 14 What do you think that refers to?

08:55AM 15 A That I just pulled into the parking lot.

08:55AM 16 Q And if we look at the time that this message was
08:56AM 17 delivered, it's May 27, 2018, at 4:26 p.m.

08:56AM 18 Do you see that?

08:56AM 19 A Yes.

08:56AM 20 MR. NAMMAR: If we can go back to, Your Honor, 1-957.

08:56AM 21 THE COURT: Go ahead.

08:56AM 22 BY MR. NAMMAR:

08:56AM 23 Q And go to box 11. On that same date, is the creation date
08:56AM 24 for this video about 15 minutes later?

08:56AM 25 A Yes.

08:56AM 1 Q So about 15 minutes after you are texting "I'm pulling
08:56AM 2 up," you're making this video?
08:56AM 3 A Yes.
08:56AM 4 Q Do you believe that was in the silver truck that Mr. Miske
08:56AM 5 references in the video?
08:56AM 6 A Yes.
08:56AM 7 Q In the text message, excuse me.
08:56AM 8 A Yes.
08:56AM 9 MR. NAMMAR: If we can now go, Your Honor, back to
08:57AM 10 1-953, page 472. Okay. Just to zoom in on the first message.
08:57AM 11 BY MR. NAMMAR:
08:57AM 12 Q Just to orient us on time, this is you texting Miske on
08:57AM 13 July 12th a little bit later in time.
08:57AM 14 Do you see that?
08:57AM 15 A Yes.
08:57AM 16 Q If we can scroll down now. Scroll down. If we can stop
08:58AM 17 here. You tell Mr. Miske "I can't find it."
08:58AM 18 Do you see that?
08:58AM 19 A Yes.
08:58AM 20 Q What are you referring to here?
08:58AM 21 A We were trying to drive around and look for the house --
08:58AM 22 Chris Bourne's house.
08:58AM 23 Q When you say "we," who is that?
08:58AM 24 A Me and Frankie Silva.
08:58AM 25 Q That's the Frankie that you talked about last week that

08:58AM 1 you said you guys were scouting out Chris Bourne's house,
08:58AM 2 parking in front of it?

08:58AM 3 A Yes.

08:58AM 4 Q In his vehicle?

08:58AM 5 A Yes.

08:58AM 6 Q Which you described as a black sedan?

08:58AM 7 A Yes.

08:58AM 8 Q Keep going down. Mr. Miske says, "I'll be that side
08:58AM 9 tomorrow."

08:58AM 10 What does that refer to?

08:58AM 11 A That he'll be around in that area tomorrow.

08:58AM 12 Q If we go back down a little further, if we could stop
08:58AM 13 there. "Okay, thank you, bro."

08:58AM 14 Do you see that?

08:58AM 15 A Yes.

08:58AM 16 Q Do you think you later got in touch with him and he showed
08:59AM 17 you where Mr. Bourne lived?

08:59AM 18 A Yes.

08:59AM 19 MR. NAMMAR: Your Honor, if we can now show the
08:59AM 20 witness only Exhibit 1-484 from the original list.

08:59AM 21 THE COURT: Go ahead.

08:59AM 22 BY MR. NAMMAR:

08:59AM 23 Q Thank you. Do you see the first couple of messages here?

08:59AM 24 A Yes.

08:59AM 25 Q Do you recognize the one in blue as being sent by you?

08:59AM 1 A Yes.

08:59AM 2 Q And if we keep going down.

09:00AM 3 Who is the one in green, if you know?

09:00AM 4 A Lance.

09:00AM 5 Q Are these messages with you and Lance about Mr. Salas that
09:00AM 6 you talked about last week?

09:00AM 7 A Yes.

09:00AM 8 MR. NAMMAR: Your Honor, I move to admit 1-484.

09:00AM 9 THE COURT: Any objection?

09:00AM 10 MR. KENNEDY: No objection.

09:00AM 11 THE COURT: 1-484 then is admitted. You may publish.

09:00AM 12 (Exhibit 1-484 was received in evidence.)

09:00AM 13 BY MR. NAMMAR:

09:00AM 14 Q Thank you. We can start with page one, the first message.

09:00AM 15 This is one of the messages we looked just from your
09:00AM 16 phone last week, right?

09:00AM 17 A Yes.

09:00AM 18 Q And this is in reference to James Salas, right?

09:00AM 19 A Yes.

09:00AM 20 Q That you were concerned that he may be cooperating?

09:00AM 21 A Yes.

09:00AM 22 Q If we go to page six, and zoom in on the last message.

09:01AM 23 Why don't you take some time and review it. Let me know when
09:01AM 24 you are done.

09:01AM 25 A I'm done.

09:01AM 1 Q Is this a message from you to Lance?

09:01AM 2 A Yes.

09:01AM 3 Q Were you in a dispute with Lance at this time?

09:01AM 4 A Yes.

09:01AM 5 Q About what?

09:01AM 6 A I robbed Dae Han after him and Lance did a game room.

09:02AM 7 Q Did you make up with Lance at some point after this?

09:02AM 8 A Yes.

09:02AM 9 Q And was Lance mad at you that you robbed Dae Han?

09:02AM 10 A Yes.

09:02AM 11 Q And in this message, you say, "But JB here too and bro is

09:02AM 12 going to get INVVED, so I ain't scared."

09:02AM 13 A Yes.

09:02AM 14 Q Who is JB?

09:02AM 15 A Johnnie was with us.

09:02AM 16 Q So you are referring to John Stancil?

09:02AM 17 A Yes.

09:02AM 18 Q And you say "bro." Who are you referring to there?

09:02AM 19 A Mike.

09:02AM 20 Q And when you say "INVVED," what does that mean?

09:02AM 21 A I'm not sure. I spelled it wrong.

09:02AM 22 Q Does that refer to involved possibly?

09:02AM 23 A Maybe.

09:02AM 24 Q So, "Bro going to get involved, so I ain't scared."

09:02AM 25 What are you referring to there?

09:03AM 1 MR. KENNEDY: Objection to the form of the question,
09:03AM 2 Your Honor, based on the answer that he wasn't sure.
09:03AM 3 THE COURT: Sustained.
09:03AM 4 BY MR. NAMMAR:
09:03AM 5 Q Bro, who do you believe that's a reference to?
09:03AM 6 A Mike.
09:03AM 7 Q And if we go to page seven. If we could zoom in there.
09:03AM 8 Are you telling Lance that you love him here the same
09:03AM 9 day?
09:03AM 10 A Yes.
09:03AM 11 Q When you say "Gimme three days, I'll return the ten."
09:03AM 12 What does that refer to?
09:03AM 13 A The money that we took.
09:03AM 14 Q So you are telling him you are going to pay the money
09:03AM 15 back?
09:03AM 16 A Yes.
09:03AM 17 Q And if we now go to the last message, if you could take
09:03AM 18 some time to review it and let me know when you are done.
09:04AM 19 A I'm done.
09:04AM 20 Q Dae -- who are you referring to here?
09:04AM 21 A Dae Han.
09:04AM 22 Q "Dae can almost kiss his attorney bye, LOL, because Mike
09:04AM 23 going to hear everything."
09:04AM 24 Do you see that?
09:04AM 25 A Yes.

09:04AM 1 Q What are you referring to here?

09:04AM 2 A The lawyer that we were using from Mike.

09:04AM 3 Q The lawyer that you talked about last week that was
09:04AM 4 representing Dae Han; is that right?

09:04AM 5 A Yes.

09:04AM 6 Q And the Mike, who is the Mike that's referred to here?

09:04AM 7 A Mike Miske.

09:05AM 8 MR. NAMMAR: Your Honor, if we could now go to 1-952,
09:05AM 9 which was admitted last week from the original list.

09:05AM 10 THE COURT: Go ahead.

09:05AM 11 BY MR. NAMMAR:

09:05AM 12 Q If we could start with -- well, if we could just zoom in
09:05AM 13 on participants. Let's zoom out real quick. Can we zoom out
09:05AM 14 real quick. Zoom in on the first message.

09:05AM 15 Is this an automated message?

09:05AM 16 A Yes.

09:05AM 17 Q So is this a message that is sent by WhatsApp, to your
09:05AM 18 knowledge?

09:05AM 19 A Yes.

09:05AM 20 Q And based on that, did you think that the message was
09:06AM 21 encrypted?

09:06AM 22 A Yes.

09:06AM 23 Q We can go to page 15. Zoom in on the first message.

09:06AM 24 So just to orient us in time, this is a message -- is
09:06AM 25 this a message you sent?

09:06AM 1 A Yes.

09:06AM 2 Q On December 12th, 2017?

09:06AM 3 A Yes.

09:06AM 4 Q And if we scroll down now.

09:06AM 5 Who do you think you are referring to here when you

09:06AM 6 say, "Bro, he writing all this bullshit. WTF"?

09:06AM 7 THE COURT: December 12th?

09:06AM 8 BY MR. NAMMAR:

09:06AM 9 Q I meant December 2nd, sorry, Your Honor.

09:06AM 10 Is this a December 2nd, 2017, delivered message?

09:07AM 11 A Yes.

09:07AM 12 Q Who do you think you are referring to when you say bro, he

09:07AM 13 writing all this bullshit. WTF?

09:07AM 14 A Probably Lindsey.

09:07AM 15 Q When you say writing all this bullshit, what do you think

09:07AM 16 you are referring to?

09:07AM 17 A He is posting videos of us on Instagram all the time.

09:07AM 18 Q Scroll down. Stop here. You reference a Dallas.

09:07AM 19 Who do you believe that to be?

09:07AM 20 A I didn't know who he was. I just heard his name. He was

09:07AM 21 talking to Lindsey about us.

09:07AM 22 Q Scroll down. We can go up to the one above that.

09:07AM 23 You're saying WTF?

09:07AM 24 A Yes.

09:07AM 25 Q "I don't know WTF for to do what happening."

09:07AM 1 Do you see that?

09:07AM 2 A Yes.

09:08AM 3 Q And Mr. Miske's response is, "I'm thinking."

09:08AM 4 Is that his response in blue?

09:08AM 5 A Yes.

09:08AM 6 Q Keep going down. Keep going down. And you are saying,

09:08AM 7 "IDK, what for do we go his house."

09:08AM 8 What are you referring to there?

09:08AM 9 A We should pull up to Lindsey's house.

09:08AM 10 Q Keep going down. And the response, Mr. Miske says, "I'm

09:08AM 11 not happy about it."

09:08AM 12 Do you see that?

09:08AM 13 A Yes.

09:08AM 14 Q Would Mr. Miske frequently tell you he was not happy about

09:08AM 15 Lindsey Kinney's posts?

09:08AM 16 A Yes.

09:08AM 17 Q Mr. Miske tells you "not his house."

09:08AM 18 What is he referring to there?

09:08AM 19 A For us not to pull up at his house.

09:08AM 20 Q Go to page 20 now. And start at the last message, it's

09:09AM 21 the same day, December 2, 2017. You talk about "where are the

09:09AM 22 mitts."

09:09AM 23 Do you see that?

09:09AM 24 A Yes.

09:09AM 25 Q If you scroll down, you correct yourself and say mutts; is

09:09AM 1 that right?

09:09AM 2 A Yes.

09:09AM 3 Q And then scroll down. Mr. Miske responds, "They stay at
09:09AM 4 an H." We can stop there.

09:09AM 5 What's being discussed here?

09:09AM 6 A That they are at a hotel.

09:09AM 7 Q Who is at a hotel?

09:09AM 8 A I think the boys that was with us the day of the -- that
09:09AM 9 Dayson got killed.

09:09AM 10 Q The Aloha Tattoo incident?

09:09AM 11 A Yes.

09:09AM 12 Q Is that Cash and Jayward that you are talking about?

09:09AM 13 A Yes.

09:09AM 14 Q And you are referring to them as mutts?

09:10AM 15 A Yes.

09:10AM 16 Q Keep going down. "At an H." And then Mr. Miske says,
09:10AM 17 "Don't make more enemies that can testify."

09:10AM 18 Do you see that?

09:10AM 19 A Yes.

09:10AM 20 Q Who do you think he is referring to here?

09:10AM 21 A To Cash and Jayward.

09:10AM 22 Q Going down. You say, "I like chill with them." Who are
09:10AM 23 you referring to there?

09:10AM 24 A Cash and Jayward, Johnnie.

09:10AM 25 Q Why bring up Johnnie?

09:10AM 1 A Because they are at the hotel with Johnnie.

09:10AM 2 Q Please scroll down. Stop here. "He's the only problem at
09:10AM 3 thus point."

09:10AM 4 Do you see that?

09:10AM 5 A Yes.

09:10AM 6 Q Who do you think the "he" was that's being referred to
09:10AM 7 here?

09:10AM 8 A Lindsey.

09:10AM 9 Q Lindsey Kinney?

09:10AM 10 A Yes.

09:10AM 11 Q If we can go to page 35 now. And start with the last
09:11AM 12 message. Mr. Miske texts you here, same day, 12/02/2017,
09:11AM 13 "Dallas causing this problems."

09:11AM 14 Do you see that?

09:11AM 15 A Yes.

09:11AM 16 Q Who is that referring to?

09:11AM 17 A The kid Dallas we were talking about in the last message.

09:11AM 18 Q Is that the same person that you told us last week that
09:11AM 19 John Stancil had a confrontation with?

09:11AM 20 A Yes.

09:11AM 21 Q Keep scrolling down. And you respond, "Dallas looks like
09:11AM 22 he's starting all of our shit."

09:11AM 23 Do you see that?

09:11AM 24 A Yes.

09:11AM 25 Q Keep going down. Are you talking about his phone number

09:11AM 1 here? Keep going down. Are you talking about his phone number

09:12AM 2 here?

09:12AM 3 A I think so.

09:12AM 4 Q Keep going down. Keep going down. Keep going down. Keep

09:12AM 5 going down. Stop here. Mr. Miske says, "The problem is the

09:12AM 6 faggot, period."

09:12AM 7 Do you see that?

09:12AM 8 A Yes.

09:12AM 9 Q Who do you believe he is referring to here?

09:12AM 10 A Lindsey.

09:12AM 11 Q Keep going down. So you text Mr. Miske here, same chain,

09:12AM 12 "What are we going to do to make him take down these posts and

09:12AM 13 stop talking all about?"

09:12AM 14 Do you see that?

09:12AM 15 A Yes.

09:12AM 16 Q Who are you referring to here?

09:12AM 17 A To Lindsey.

09:12AM 18 Q Going down. Stop here. Mr. Miske tells you, "Don't be

09:12AM 19 unraveling now."

09:12AM 20 Do you see that?

09:12AM 21 A Yes.

09:12AM 22 Q "Got to think." Would Mr. Miske commonly give you

09:13AM 23 instructions like that when discussing things about Lindsey

09:13AM 24 Kinney and what to do?

09:13AM 25 A Yes.

09:13AM 1 Q We can stop there. And now if we can go to page 41. Also
09:13AM 2 if we can zoom in on the first message. Also on the same day,
09:13AM 3 12/2.
09:13AM 4 Do you see that?
09:13AM 5 A Yes.
09:13AM 6 Q You are texting here, "Where you stay, can not meet up?"
09:13AM 7 What are you asking?
09:13AM 8 A If we can meet up.
09:13AM 9 Q And scroll down. Mr. Miske says, "I can, one hour."
09:13AM 10 Do you see that?
09:13AM 11 A Yes.
09:13AM 12 Q And go down. He asks about his daughter.
09:14AM 13 Do you see that?
09:14AM 14 A Yes.
09:14AM 15 Q And one more down. "No more pics."
09:14AM 16 Do you see that?
09:14AM 17 A Yes.
09:14AM 18 Q Who is that referring to?
09:14AM 19 A I think he is talking about Lindsey's daughter.
09:14AM 20 Q What is he asking for with no more pics?
09:14AM 21 A I don't know. He is asking who she fools around with and
09:14AM 22 stuff like that.
09:14AM 23 Q Scrolling down. Scrolling down. "Of her naked."
09:14AM 24 Do you see that?
09:14AM 25 A Yes.

09:14AM 1 Q Who is he referring to there?

09:14AM 2 A To Lindsey's daughter.

09:14AM 3 Q Will you scroll down. Is he telling you to get some
09:14AM 4 there?

09:14AM 5 A Yes.

09:14AM 6 Q What is he referring to there?

09:14AM 7 A To try and get pictures of her, whoever she fools around
09:14AM 8 with.

09:14AM 9 Q Naked pictures?

09:14AM 10 A Yes.

09:14AM 11 Q Did he tell you what he wanted to do with those naked
09:14AM 12 pictures?

09:14AM 13 A He said he was going to post them.

09:14AM 14 Q To get back at Lindsey Kinney?

09:14AM 15 A Yes.

09:14AM 16 Q We can go to page 47 now. Start at the last message.

09:15AM 17 "Talk in lerson."

09:15AM 18 Do you see that?

09:15AM 19 A Yes.

09:15AM 20 Q Do you think that's a typo?

09:15AM 21 A Yes.

09:15AM 22 Q What do you think it's meant to say?

09:15AM 23 A Talk in person.

09:15AM 24 Q Would you commonly meet with Mr. Miske in person?

09:15AM 25 A Yes.

09:15AM 1 Q To discuss various criminal activity?

09:15AM 2 A Yes.

09:15AM 3 Q Go down. Mr. Miske says, "I headed to town." Keep going

09:15AM 4 down. You reply, "Yeah, when?" Going down. "Bro, WYA?"

09:15AM 5 What is WYA?

09:15AM 6 A Where you at.

09:15AM 7 Q Response is "freeway." Keep going down. Keep going down.

09:16AM 8 WYA, where you at. Mr. Miske says, "Leaving gym in ten

09:16AM 9 minutes." Your response, "Town driving around." And then stop

09:16AM 10 here. "Come in loop, park in loop, and elevator to four."

09:16AM 11 Do you know what that refers to?

09:16AM 12 A Yes.

09:16AM 13 Q What?

09:16AM 14 A He wanted me to meet him at the gym that he works out at

09:16AM 15 in the Honolulu Club.

09:16AM 16 Q Is that one of the places that you would commonly meet

09:16AM 17 him?

09:16AM 18 A Not commonly, but every now and then we met up over there.

09:16AM 19 Q Keep going down. Gym. Keep going down. "I'm on two."

09:16AM 20 Do you know what that refers to?

09:16AM 21 A Yes.

09:16AM 22 Q What?

09:16AM 23 A He is on the second floor.

09:16AM 24 Q Keep going down. Keep going down. "Coming down Ward."

09:17AM 25 Does that refer to the street?

09:17AM 1 A Yes.

09:17AM 2 Q One more message. Stop there. "Park in loop and come up
09:17AM 3 to two."

09:17AM 4 Do you see that?

09:17AM 5 A Yes.

09:17AM 6 Q What's being discussed here?

09:17AM 7 A To park in the loop and come to the second floor.

09:17AM 8 Q And at these in-person meetings, would you sometimes
09:17AM 9 discuss assaults?

09:17AM 10 A Yes.

09:17AM 11 Q Sometimes discuss Lindsey Kinney?

09:17AM 12 A Yes.

09:17AM 13 Q Sometimes discuss the robberies that you you've talked
09:17AM 14 about?

09:17AM 15 A Yes.

09:17AM 16 Q We can go now to page 56. And start on the second
09:17AM 17 message.

09:17AM 18 Same day, right? We are still on December 2nd, right?

09:17AM 19 A Yes.

09:17AM 20 Q You're saying, "Promise over everything if I see him, I'm
09:18AM 21 going to turn his jaw."

09:18AM 22 A Yes.

09:18AM 23 Q Keep going down. And you say, "I'm going to knock him out
09:18AM 24 cold."

09:18AM 25 Do you see that?

09:18AM 1 A Yes.

09:18AM 2 Q Who are you referring to here?

09:18AM 3 A To Lindsey.

09:18AM 4 Q Lindsey Kinney?

09:18AM 5 A Yes.

09:18AM 6 Q And Mr. Miske's response -- keep going down. "And not
09:18AM 7 stop."

09:18AM 8 Do you see that?

09:18AM 9 A Yes.

09:18AM 10 Q And then you say, "Yep, going to knock out his teeth out
09:18AM 11 of his mouth."

09:18AM 12 Do you see that?

09:18AM 13 A Yes.

09:18AM 14 Q And then Mr. Miske's response is "not enough," right?

09:18AM 15 A Yes.

09:18AM 16 Q And then you say, "I know." We can stop here. "I'm not
09:18AM 17 going to stop swinging until I can't swing no more."

09:18AM 18 You are talking about what you are going to do to
09:18AM 19 Lindsey Kinney?

09:18AM 20 A Yes.

09:19AM 21 Q Go to page 65. Zoom in on this message. So this is a
09:19AM 22 couple of days later on December 4th.

09:19AM 23 Do you see that?

09:19AM 24 A Yes.

09:19AM 25 Q Mr. Miske says, "I almost had LK kicked off IG."

09:19AM 1 A Yes.

09:19AM 2 Q What does that refer to?

09:19AM 3 A Lindsey Kinney and Instagram.

09:19AM 4 Q The kicked off part, what does that refer to?

09:19AM 5 A He was trying to get his account shut down.

09:19AM 6 Q Lindsey Kinney's account?

09:19AM 7 A Yes.

09:19AM 8 Q He would tell you that?

09:19AM 9 A Yes.

09:19AM 10 Q If we can go to page 75. So this is three days later now,

09:20AM 11 December 7th.

09:20AM 12 Do you see that?

09:20AM 13 A Yes.

09:20AM 14 Q You are asking -- you are referencing the shop.

09:20AM 15 What does that refer to?

09:20AM 16 A To Kama'aina.

09:20AM 17 Q Keep going down. "Can come see."

09:20AM 18 What does that refer to?

09:20AM 19 A I'm not sure. Probably can I come see him.

09:20AM 20 Q Is that one of the places you would sometimes meet

09:20AM 21 Mr. Miske?

09:20AM 22 A Yes.

09:20AM 23 Q Keep going down. Keep going down. Mr. Miske's response

09:21AM 24 is, "Yo," and then, "I'll come. WYA?"

09:21AM 25 What does that mean?

09:21AM 1 A Where you at.

09:21AM 2 Q You tell him "eggs and things." Keep going down. Keep
09:21AM 3 going down. Telling him "by Payless Ala Moana." Keep going
09:21AM 4 down. Keep going down. "Seen his last post."

09:21AM 5 Do you see that?

09:21AM 6 A Yes.

09:21AM 7 Q If we go up to the one before. "K coming."

09:21AM 8 Do you see that?

09:21AM 9 A Yes.

09:21AM 10 Q Is this another example of you and Mr. Miske coordinating
09:21AM 11 a meet-up?

09:21AM 12 A Yes.

09:21AM 13 Q Keep going down. Keep going down. Keep going down. Stop
09:22AM 14 here. Mr. Miske says "two minutes away."

09:22AM 15 Another example of you guys coordinating a meet-up?

09:22AM 16 A Yes.

09:22AM 17 Q We can go to page 81. Start on the last message.
09:22AM 18 Mr. Miske says, "CRU looking for Bubu."

09:22AM 19 Do you see that?

09:22AM 20 A Yes.

09:22AM 21 Q Who is Bubu, if you know?

09:22AM 22 A Johnnie.

09:22AM 23 Q John Stancil?

09:22AM 24 A Yes.

09:22AM 25 Q It's another one of his nicknames?

09:22AM 1 A Yes.

09:22AM 2 Q CRU, what does that refer to?

09:22AM 3 A Undercover police officers, crime reduction.

09:22AM 4 Q With the Honolulu Police Department?

09:22AM 5 A Yes.

09:22AM 6 Q If we can keep going down. You say, "How you know?" And

09:22AM 7 then go down. Mr. Miske says, "CRU grabbed Cody. Drilling him

09:23AM 8 for Bubu location."

09:23AM 9 Do you see that?

09:23AM 10 A Yes.

09:23AM 11 Q Who is Cody?

09:23AM 12 A Their other brother.

09:23AM 13 Q Mr. Miske's other brother and Mr. Stancil's other brother?

09:23AM 14 A Yes.

09:23AM 15 Q And then you -- keep going down -- you ask for question

09:23AM 16 mark. And then the response is, "TAT."

09:23AM 17 Do you see that?

09:23AM 18 A Yes.

09:23AM 19 Q Does this refer to Aloha Tattoo?

09:23AM 20 A Yes.

09:23AM 21 Q And this is on December 8, 2017; do you see that?

09:23AM 22 A Yes.

09:23AM 23 Q We can go to page 84 now. Zoom out on this message.

09:23AM 24 This is from you?

09:23AM 25 A Yes.

09:23AM 1 Q You're saying you haven't heard from him in a while.

09:24AM 2 This is now on December 12, 2017, a few days later?

09:24AM 3 A Yes.

09:24AM 4 Q And if we go down. Mr. Miske says, "D-I-S number was in

09:24AM 5 car. Delz was driving."

09:24AM 6 Do you see that?

09:24AM 7 A Yes.

09:24AM 8 Q What's that referring to?

09:24AM 9 A That phone was in the car Delia was driving.

09:24AM 10 THE COURT REPORTER: I'm sorry, the what?

09:24AM 11 THE WITNESS: The phone, that number was in the car

09:24AM 12 that Delia was driving.

09:24AM 13 Q So the Delz is referring to Delia?

09:24AM 14 A I think so.

09:24AM 15 Q If we go down. Stop there. Mr. Miske says, "I still get

09:24AM 16 the 228 if emerg."

09:24AM 17 Do you see that?

09:24AM 18 A It's the regular number if it's an emergency.

09:24AM 19 Q The 228 is referring to his other number?

09:24AM 20 A Yes.

09:25AM 21 MR. NAMMAR: Your Honor, if we could now go to 1-953,

09:25AM 22 which was admitted last week.

09:25AM 23 THE COURT: Go ahead.

09:25AM 24 BY MR. NAMMAR:

09:25AM 25 Q Thank you. Page 15. Last message. So this is just a

09:25AM 1 couple days later, another text from Mr. Miske?

09:25AM 2 A Yes.

09:25AM 3 Q On December 14, 2017. Mr. Miske writes -- well, the

09:25AM 4 number, 228-7500.

09:25AM 5 A Yes.

09:25AM 6 Q Is that the number Mr. Miske was referring to in the last

09:25AM 7 text?

09:25AM 8 A Yes.

09:25AM 9 Q And the message, he says, "Try high kick that dummy. Make

09:25AM 10 sure on film."

09:25AM 11 Do you see that?

09:25AM 12 A Yes.

09:25AM 13 Q Who is that referring to?

09:25AM 14 A Lindsey Kinney.

09:25AM 15 Q Is dummy a phrase you would commonly refer to Lindsey

09:26AM 16 Kinney as?

09:26AM 17 A Yes.

09:26AM 18 Q Make sure on film. Would you commonly get requests from

09:26AM 19 Miske to film things?

09:26AM 20 A Yes.

09:26AM 21 Q High kick, is that something you were known for?

09:26AM 22 A Yes.

09:26AM 23 Q What does that refer to?

09:26AM 24 A Kicking him in the face.

09:26AM 25 Q And if we scroll down. You're saying, "I never go see

09:26AM 1 him. He runs."

09:26AM 2 A Yes.

09:26AM 3 Q What does that refer to?

09:26AM 4 A When I would see him, he would run.

09:26AM 5 Q Lindsey Kinney?

09:26AM 6 A Yes.

09:26AM 7 Q He would run away from you?

09:26AM 8 A Yes.

09:26AM 9 Q Go down. Mr. Miske says, "That video would go viral."

09:26AM 10 Going down. "He only make videos." We can stop there.

09:26AM 11 Who is that referring to?

09:26AM 12 A Lindsey Kinney.

09:26AM 13 Q You can go to page 30 now. Zoom in on the second message.

09:27AM 14 This is a couple days later. December 16th -- excuse me, yeah,

09:27AM 15 December 16, 2017. Mr. Miske texts, "I may not be with you

09:27AM 16 every day running around but I promise you this: When you need

09:27AM 17 me, I'll be there."

09:27AM 18 Do you see that?

09:27AM 19 A Yes.

09:27AM 20 Q And if you text him back, if you look below you text him

09:27AM 21 back, "I know, bro, love you."

09:27AM 22 As I believe you testified to last week, you felt like

09:27AM 23 you had protection from Mr. Miske?

09:27AM 24 A Yes.

09:27AM 25 Q Is this an example -- one of the examples of why you

09:27AM 1 thought you had Mr. Miske's protection?

09:27AM 2 A Yes.

09:27AM 3 Q When he says -- if we go back up, "I may not be with you
09:28AM 4 every day running around," do you see that?

09:28AM 5 A Yes.

09:28AM 6 Q I think you testified last week you were committing a
09:28AM 7 bunch of robberies which Mr. Miske was not a part of for the
09:28AM 8 majority of those robberies, right?

09:28AM 9 A Yes.

09:28AM 10 Q But you would inform Mr. Miske about those robberies; is
09:28AM 11 that right?

09:28AM 12 A Yes.

09:28AM 13 Q We can go to page 37 now. Start with the second message.
09:28AM 14 This is a day later on December 17th. Mr. Miske says, "Try get
09:28AM 15 me a pic of that dummy's daughter." Scroll down. "One nude
09:29AM 16 one if get."

09:29AM 17 What do you think that's referring to?

09:29AM 18 A To Lindsey's daughter.

09:29AM 19 Q Naked pictures of her like you just testified to?

09:29AM 20 A Yes.

09:29AM 21 Q Going down. And then he says, "And if anyone knows the
09:29AM 22 ex-wife's IG."

09:29AM 23 What is that referring to?

09:29AM 24 A If anyone knows Lindsey's ex-wife's IG Instagram.

09:29AM 25 Q If we go to page 39. Zoom in on the last message. The

09:29AM 1 next day December 18th, 2017, you're texting with Mr. Miske,
09:29AM 2 "Bro, how come all these guys saying I was the one there at the
09:30AM 3 tattoo shop."
09:30AM 4 Do you see that?
09:30AM 5 A Yes.
09:30AM 6 Q What are you saying there? What's that referring to?
09:30AM 7 A I'm asking him why the story is everybody is saying I was
09:30AM 8 the one that was there, because I wasn't the one that went in.
09:30AM 9 It was Daes.
09:30AM 10 Q Who was the one that went in with Daes?
09:30AM 11 A Johnnie.
09:30AM 12 Q If you go down, Mr. Miske says, "Who is saying?"
09:30AM 13 Do you see that?
09:30AM 14 A Yes.
09:30AM 15 Q Going down. And then it says, "Tim telling all kind
09:30AM 16 people was me."
09:30AM 17 Do you see that?
09:30AM 18 A Yes.
09:30AM 19 Q Who do you believe Tim is referring to?
09:30AM 20 A The owner of the tattoo shop.
09:30AM 21 Q Going down. And then Mr. Miske says "Get to Tim."
09:30AM 22 Do you see that?
09:30AM 23 A Yes.
09:30AM 24 Q Tell him, "Why the fuck he saying that." Going down.
09:30AM 25 "Who did he tell that to?" Go on down. "Guarantee it's LK

09:30AM 1 telling Tim that."

09:31AM 2 Who is LK referring to?

09:31AM 3 A Lindsey Kinney.

09:31AM 4 Q Going down, "A bunch of people telling me it's coming from

09:31AM 5 Tim," is your response. Going down. "You have any pics of his

09:31AM 6 daughter?"

09:31AM 7 Do you see that?

09:31AM 8 A Yes.

09:31AM 9 Q Keep going down. The response is, "LK," do you see that?

09:31AM 10 A Yes.

09:31AM 11 Q That's Lindsey Kinney?

09:31AM 12 A Yes.

09:31AM 13 Q Keep going down. You say, "Nope, I don't got." Keep

09:31AM 14 going down. "I no even think she got social media."

09:31AM 15 Are you referring to Lindsey's daughter?

09:31AM 16 A Yes.

09:31AM 17 Q Keep going down. He is saying, "I thought one of the boys

09:31AM 18 was cranking her."

09:31AM 19 Who is that referring to?

09:31AM 20 A I'm not sure.

09:31AM 21 Q Keep going down. "He no more."

09:32AM 22 Were these about Lindsey Kinney's daughter?

09:32AM 23 A Yes.

09:32AM 24 Q If we go to page 52. Start at the top. Mr. Miske says --

09:32AM 25 this is a couple of days later now on December 19th. "Somebody

09:32AM 1 been hammering nonstop." If we scroll down. You say, "huh?"

09:32AM 2 The response is "I crack up." And then you say, "on IG?"

09:32AM 3 What does IG refer to?

09:32AM 4 A Instagram.

09:32AM 5 Q Keep going down. "Who." Keep going down. "No front in

09:33AM 6 808." Keep going down. "Something like that." You say,

09:33AM 7 "Who's that, do we know him?" Keep going down. "IDK," does

09:33AM 8 that mean I don't know?

09:33AM 9 A Yes.

09:33AM 10 Q Keep going down. Stop there. "Sound like Migo but I

09:33AM 11 never ask."

09:33AM 12 Do you see that?

09:33AM 13 A Yes.

09:33AM 14 Q Who is Migo?

09:33AM 15 A Johnnie.

09:33AM 16 Q Did John Stancil ever make fake pages on Instagram?

09:33AM 17 A Yes.

09:33AM 18 Q What would he post on those fake pages?

09:33AM 19 A They would argue with Lindsey on the fake pages.

09:33AM 20 Q We go to page 64 now. Start on the bottom message. So

09:34AM 21 couple of days later now, December 21, 2017. You say, "I just

09:34AM 22 saw Dallas."

09:34AM 23 You see that?

09:34AM 24 A Yes.

09:34AM 25 Q Is this the Dallas that you've been discussing in the last

09:34AM 1 messages we looked at?

09:34AM 2 A Yes.

09:34AM 3 Q The one that you testified you thought was spreading

09:34AM 4 information about you guys?

09:34AM 5 A Yes.

09:34AM 6 Q Keep going down. Mr. Miske asks where. The response,

09:34AM 7 "and what happened?" You say, "I driving. Text you when I

09:34AM 8 stop." You say, "I just smiled at him and told him I heard you

09:34AM 9 going to die soon, boy."

09:34AM 10 Are you referring to Dallas there?

09:34AM 11 A Yes.

09:34AM 12 Q You say "he ran out of the spot. He ran out the spot."

09:35AM 13 "He ran?" Question mark. Your response is, "Yep." He said,

09:35AM 14 "hurry, we gotta go." Mr. Miske asks "who was he with?" Keep

09:35AM 15 going down. Keep going down. He tells you here, "Should have

09:35AM 16 slapped that person."

09:35AM 17 Do you see that?

09:35AM 18 A Yes.

09:35AM 19 Q That's referring to Dallas?

09:35AM 20 A Yes.

09:35AM 21 Q What does to slap mean?

09:35AM 22 A To slap him.

09:35AM 23 Q "He the one giving info."

09:35AM 24 Do you see that?

09:35AM 25 A Yes.

09:35AM 1 Q Is that referring to Dallas?

09:35AM 2 A Yes.

09:35AM 3 Q We can go to page 77. Zoom in on the first message. It

09:36AM 4 says the next day, December 22nd, "What gotta do for get 'em

09:36AM 5 taken down."

09:36AM 6 Do you see that?

09:36AM 7 A Yes.

09:36AM 8 Q "I been trying," is Mr. Miske's response. Keep going

09:36AM 9 down. "Enough PPL complaining."

09:36AM 10 Do you see that?

09:36AM 11 A Yes.

09:36AM 12 Q What is that referring to?

09:36AM 13 A People.

09:36AM 14 Q What are you asking Mr. Miske here?

09:36AM 15 A How we are going to get Lindsey's Instagram taken down.

09:36AM 16 Q You were trying to get his IG removed from Instagram?

09:36AM 17 A Yes.

09:36AM 18 Q We can go to page 80 now. Top message. You're saying

09:37AM 19 here that this person is driving you nuts. Keep going down.

09:37AM 20 Response is, "how you think I feel." Keep going down. Stop

09:37AM 21 here. "He's a problem."

09:37AM 22 Do you see that?

09:37AM 23 A Yes.

09:37AM 24 Q Who is that referring to?

09:37AM 25 A Lindsey Kinney.

09:37AM 1 Q We can go to page 85. Zoom in on the top message. Couple
09:37AM 2 days later now on December 24th, Mr. Miske tells you, "Don't
09:38AM 3 drive. Tell Oni I said hi."
09:38AM 4 Who is Oni referred to?
09:38AM 5 A Keoni Adric.
09:38AM 6 Q Is that the person that you testified to last week that
09:38AM 7 assaulted Shaden?
09:38AM 8 A Yes.
09:38AM 9 Q For Mr. Miske?
09:38AM 10 A Yes.
09:38AM 11 Q Go to page 92. Zoom in on the last -- the second message.
09:38AM 12 You're typing here, "LOL, he is a dummy." Scrolling down.
09:38AM 13 "Bro, I, like, knock him out so bad."
09:38AM 14 Are you talking about Lindsey Kinney again?
09:38AM 15 A Yes.
09:38AM 16 Q Keep going down. Mr. Miske says, "I wish you did already.
09:39AM 17 Should a long time ago. And film it so we can shoot it so
09:39AM 18 people can see the truth."
09:39AM 19 Do you see that?
09:39AM 20 A Yes.
09:39AM 21 Q Would he commonly ask you to record things like this?
09:39AM 22 A Yes.
09:39AM 23 Q Keep going down. Keep going down. Keep going down. "He
09:39AM 24 was at the corner last night."
09:39AM 25 Do you see that?

09:39AM 1 A Yes.

09:39AM 2 Q What is that referring to?

09:39AM 3 A The bar in Kaneohe.

09:39AM 4 Q Is that the same bar that we looked at a video from last
09:39AM 5 week of you fighting?

09:39AM 6 A Yes.

09:39AM 7 Q Is that a bar that Mr. Kinney would hang out at?

09:39AM 8 A Yes.

09:39AM 9 Q Keep going down. You were asked, "How we know." And the
09:39AM 10 response -- stop here. "Andi seen him."

09:40AM 11 Do you see that?

09:40AM 12 A Yes.

09:40AM 13 Q Who is this referring to?

09:40AM 14 A One of Mike's girlfriends.

09:40AM 15 Q That was Andi?

09:40AM 16 A Yes.

09:40AM 17 Q Go to page 98. Last message, Mr. Miske tells you on
09:40AM 18 December 24th, "Gonna camp at the Bay overnight, hang out all
09:40AM 19 day tomorrow. You always invited." Your response is on the
09:40AM 20 next page. Stop there. "Roger, bro, I see you there."

09:40AM 21 What's that referring to?

09:40AM 22 A The Bay.

09:40AM 23 Q Where you guys would hang out in Hawaii Kai?

09:40AM 24 A Yes.

09:40AM 25 Q If we go to page 112. Start on the second message. Two

09:41AM 1 days later you're asking him, "Did Alen say anything?"

09:41AM 2 Who is that referring to?

09:41AM 3 A Alen Kaneshiro.

09:41AM 4 Q The lawyer that you've been telling us about?

09:41AM 5 A Yes.

09:41AM 6 Q Keep going down. He says, "Alen going call me in an

09:41AM 7 hour." Keep going down. Keep going down. Stop here.

09:41AM 8 What's being discussed here?

09:41AM 9 A Turning myself in for a violation.

09:41AM 10 Q Is Mr. Miske discussing advice that he received from Alen

09:41AM 11 for you?

09:41AM 12 A Yes.

09:41AM 13 Q Go to page 127. First message.

09:42AM 14 You're asking Mr. Miske where he is here?

09:42AM 15 A Yes.

09:42AM 16 Q The second message down. Stop here. "Auction."

09:42AM 17 Do you see that?

09:42AM 18 A Yes.

09:42AM 19 Q What does that refer to?

09:42AM 20 A The car auction.

09:42AM 21 Q Would you ever go to the auction with Mr. Miske?

09:42AM 22 A I have.

09:42AM 23 Q Where was it located, if you remember?

09:42AM 24 A In Mapunapuna Industrial.

09:42AM 25 Q If we can go to page 182 now, and start at the top. So

09:42AM 1 now we are in February of 2018.

09:42AM 2 Do you see that on the bottom?

09:42AM 3 A Yes.

09:42AM 4 Q And he is asking you about a person named Kalani. Scroll

09:43AM 5 down. He is saying -- scroll down, "I had to grab him."

09:43AM 6 Scroll down. "He went and jump bail." Scroll down. "My

09:43AM 7 friend the bondsman." Scroll down. "I just dropped him off at

09:43AM 8 the police station cell block." HPD caught him on Kuhio. And

09:43AM 9 you say, "He stay Ebb Tides."

09:43AM 10 What are you talking about here?

09:43AM 11 A I knew who he was and he stayed at an apartment in

09:43AM 12 Waikiki.

09:43AM 13 Q And this is about this person Kalani?

09:43AM 14 A Yes.

09:43AM 15 Q Keep going down. Keep going down. Keep going down. Keep

09:44AM 16 going down. Stop here. Mr. Miske says, "Yeah, those people

09:44AM 17 are taking pics of me."

09:44AM 18 Do you see that?

09:44AM 19 A Yes.

09:44AM 20 Q Who is he referring to?

09:44AM 21 A The police that were there with him.

09:44AM 22 Q Keep going down. Keep going down. Keep going down. Stop

09:44AM 23 here. "One of the pics got back to me."

09:44AM 24 Do you see that?

09:44AM 25 A Yes.

09:44AM 1 Q What is he saying here?

09:44AM 2 A Pics the police took over there got back to him.

09:44AM 3 (Reporter interruption for clarification.)

09:44AM 4 A One of the pictures the police took got back to him.

09:44AM 5 Q So he was explaining that a police officer took pictures

09:44AM 6 of him when was arresting Kalani?

09:44AM 7 A Yes.

09:44AM 8 Q And that one of the pictures was reported back to him?

09:44AM 9 A Yes.

09:44AM 10 Q Keep going down. Keep going down. Keep going down.

09:45AM 11 Mr. Miske says, "The CRU guys was taking pictures of me."

09:45AM 12 What does CRU refer to?

09:45AM 13 A Undercovers.

09:45AM 14 Q Keep going down. Keep going down. You're saying, "Was

09:45AM 15 the CRU named Tanuvasa?"

09:45AM 16 Do you see that?

09:45AM 17 A Yes.

09:45AM 18 Q Who is Tanuvasa?

09:45AM 19 A The CRU that didn't like me and Lance.

09:45AM 20 Q A police officer?

09:45AM 21 A Yes.

09:45AM 22 Q Keep going down. And here -- keep going down. He is

09:45AM 23 telling you he is providing you with a name. Keep going down.

09:45AM 24 "Micah Apo."

09:45AM 25 Do you see that?

09:45AM 1 A Yes.

09:45AM 2 Q Is that a police officer?

09:45AM 3 A Yes.

09:45AM 4 Q Keep going down. Keep going down. Keep going down. He

09:46AM 5 is saying, "HPD is security guards."

09:46AM 6 Do you see that?

09:46AM 7 A Yes.

09:46AM 8 Q Keep going down. Stop here. "I call them mailmen."

09:46AM 9 Do you see that?

09:46AM 10 A Yes.

09:46AM 11 Q Is that how you would commonly refer to Honolulu police

09:46AM 12 officers around you?

09:46AM 13 A I think he was teasing them.

09:46AM 14 Q If we go now to page 200. First message. So around the

09:46AM 15 same time also in February, Mr. Miske says, "Dave should shoot

09:46AM 16 that person now. At least he would have a valid reason."

09:46AM 17 Do you know what that's referring to?

09:46AM 18 A Yes.

09:46AM 19 Q What is it referring to?

09:46AM 20 A One of my friends got beat up from Lindsey Kinney and he

09:46AM 21 is saying they should shoot him.

09:47AM 22 Q Who was your friend?

09:47AM 23 A David Pedro (phonetic).

09:47AM 24 Q Could we go to page 207 now. If we go to the second

09:47AM 25 message. Four days later. Mr. Miske says, "I wish you would

09:47AM 1 smash that person to pieces."

09:47AM 2 Do you see that?

09:47AM 3 A Yes.

09:47AM 4 Q Keep going down. You're responding here, "He not going to
09:47AM 5 meet."

09:47AM 6 Who are you referring to?

09:47AM 7 A Lindsey.

09:48AM 8 Q Keep going down. "Who his friends?" Question mark. And
09:48AM 9 then you say Abe.

09:48AM 10 Who are you referring to there?

09:48AM 11 A Abe Sakama.

09:48AM 12 Q You are discussing one of the Lindsey Kinney's friends?

09:48AM 13 A Yes.

09:48AM 14 Q If we go to page 217. Last message. Couple days later,
09:48AM 15 February 23, 2018. Mr. Miske says, "Catch him walking to his
09:48AM 16 truck." If we could scroll down. Scroll down. L-I-K, what
09:49AM 17 does that refer to?

09:49AM 18 A Beat him up, lick him.

09:49AM 19 Q Scroll down. Mr. Miske says bad. Who are you guys
09:49AM 20 referring to here?

09:49AM 21 A Lindsey.

09:49AM 22 Q More Lindsey Kinney text messages?

09:49AM 23 A Yes.

09:49AM 24 Q We go to page 224, last message. "Please shut this person
09:49AM 25 up." Keep going, next page. Keep going down. Keep going

09:49AM 1 down. Stop there.

09:49AM 2 What does smash refer to?

09:49AM 3 A Beat him up badly.

09:49AM 4 Q Is this more Lindsey Kinney text messages?

09:49AM 5 A Yes.

09:49AM 6 Q We go to page 248. Start with last message. We are a

09:50AM 7 couple of days later now.

09:50AM 8 February 26, 2018, do you see that?

09:50AM 9 A Yes.

09:50AM 10 Q "I see Certification right now."

09:50AM 11 Do you see that?

09:50AM 12 A Yes.

09:50AM 13 Q Who are you talking about here?

09:50AM 14 A Ryan Teramoto.

09:50AM 15 Q Why do you use the name Certification?

09:50AM 16 A Because that was the name of his pest control business.

09:50AM 17 Q If we go to the next message, "Certi squirty."

09:50AM 18 Do you see that?

09:50AM 19 A Yes.

09:50AM 20 Q Who is that referring to?

09:50AM 21 A Ryan Teramoto.

09:50AM 22 Q Going down. Mr. Miske's response is, "Do it."

09:50AM 23 Do you see that?

09:50AM 24 A Yes.

09:50AM 25 Q What is he referring to?

09:50AM 1 A To assault him.

09:51AM 2 Q And then there is a Q and then there is a Quin.

09:51AM 3 Do you see that?

09:51AM 4 A Yes.

09:51AM 5 Q Who is that referring to?

09:51AM 6 A My friend Quinton that was cruising with me.

09:51AM 7 Q Keep going down. "With me, LOL. That's why I told you."

09:51AM 8 What's that referring to?

09:51AM 9 A That Quinton is with me.

09:51AM 10 Q Keep going down. And then you say -- Mr. Miske says,

09:51AM 11 "Yeah, doggy."

09:51AM 12 What is he referring to here?

09:51AM 13 A He is excited.

09:51AM 14 Q About you assaulting Teramoto with Quinton?

09:51AM 15 A Yes.

09:51AM 16 Q How big of a person is Quinton?

09:51AM 17 A He is a big boy.

09:51AM 18 Q And then keep going down. Response is, "I like see."

09:51AM 19 What is he saying there?

09:51AM 20 A That he wants to see us do it.

09:52AM 21 Q Keep going down. You say, "I don't know if he even here,

09:52AM 22 just his car in there and it's closing soon."

09:52AM 23 What are you referring to?

09:52AM 24 A That the store we see the truck outside is about to close.

09:52AM 25 Q Do you remember what kind of store that was?

09:52AM 1 A Jiffy Lube.

09:52AM 2 Q Where?

09:52AM 3 A In Kaneohe Windward Mall.

09:52AM 4 Q Jiffy Lube Kaneohe Windward Mall?

09:52AM 5 A Yes.

09:52AM 6 Q Keep going down. Mr. Miske says, "Discipline."

09:52AM 7 Is he saying wait him out here?

09:52AM 8 A Yes.

09:52AM 9 Q Keep going down. "Wait him out."

09:52AM 10 He is giving you advice on how to do the assault?

09:52AM 11 A Yes.

09:52AM 12 Q And then your response is, "We been, the shop closing and

09:53AM 13 his car in the shop."

09:53AM 14 What does that mean?

09:53AM 15 A That we was waiting there but the shop was closing and the

09:53AM 16 truck was still there.

09:53AM 17 Q Then he says, "Oh, next time." And then Mr. Miske says,

09:53AM 18 "What shop?" Keep going down. You saying, "We walked in

09:53AM 19 everything, he not even there."

09:53AM 20 What are you referring to there?

09:53AM 21 A That we walked in looking for him and he wasn't there.

09:53AM 22 Q And then keep going down. Jiffy. Do you see that?

09:53AM 23 A Yes.

09:53AM 24 Q What does that mean?

09:53AM 25 A The Kaneohe Jiffy Lube.

09:53AM 1 Q Keep going down. Keep going down. You're saying here
09:53AM 2 that they closed and they just brought his truck back?
09:53AM 3 A Yes.
09:53AM 4 Q Referring Jiffy Lube?
09:53AM 5 A Yes.
09:53AM 6 Q And then his response, stop here, "They leaving it."
09:54AM 7 Is this referring to Teramoto's truck?
09:54AM 8 A Yes.
09:54AM 9 Q If we go down to page 292. Zoom in here. Now we are in
09:54AM 10 March, March 2, 2018. Last week you were shown a video of you
09:54AM 11 fighting someone outside the corner bar.
09:54AM 12 Could you remind us what that one was of?
09:54AM 13 A That was one of Lindsey's friends.
09:54AM 14 Q What are you doing here in this WhatsApp message?
09:54AM 15 A I sent it to Mike.
09:54AM 16 Q You're sending the video of you assaulting one of
09:55AM 17 Lindsey's friends?
09:55AM 18 A Yes.
09:55AM 19 Q Keep going down. Keep going down.
09:55AM 20 Did you send him three videos here?
09:55AM 21 A Yes.
09:55AM 22 Q Were they all you assaulting Lindsey Kinney's friend?
09:55AM 23 A Yes.
09:55AM 24 Q Keep going down. Miske says, "Who is that? Who is
09:55AM 25 Lindsey's boy?" "His nephew." You say, "I caught him at the

09:55AM 1 bar and split one cup on his head."

09:55AM 2 What are you referring to there?

09:55AM 3 A I hit him with a cup inside the bar.

09:55AM 4 Q Keep going down. Mr. Miske is asking, "Dummy LK?" Is he
09:55AM 5 asking if it's Lindsey Kinney?

09:55AM 6 A Yes.

09:55AM 7 Q And keep going down. You say, "No. No, his boy." You
09:56AM 8 tell him, "I told him, call Lindsey." Keep going down. Stop
09:56AM 9 here. You say "Taylor."

09:56AM 10 Who is that?

09:56AM 11 A Lindsey's friend.

09:56AM 12 Q Keep going down. Keep going down. Keep going down. You
09:56AM 13 say, "He stay in the videos with him."

09:56AM 14 What do you mean by that?

09:56AM 15 A That he was making videos with Lindsey Kinney.

09:56AM 16 Q Keep going down. Keep going down. Keep going down. Keep
09:56AM 17 going down. Quinton, that's referred to here, who is that?

09:56AM 18 A My friend.

09:56AM 19 Q Is that the same friend that you were outside of Jiffy
09:57AM 20 Lube with?

09:57AM 21 A Yes.

09:57AM 22 Q Keep going down. Keep going down. We can stop there.
09:57AM 23 Can we go now to page 311 and focus on the last message. This
09:57AM 24 is sent to you around the same time, March 4, 2018.

09:57AM 25 Is this from Mr. Miske?

09:57AM 1 A Yes.

09:57AM 2 Q And now if we go to page 516 and zoom in.

09:57AM 3 Does this appear to be the same message that -- just
09:58AM 4 blown up that we just looked at?

09:58AM 5 A Yes.

09:58AM 6 Q It says, "Report an impersonation account on Instagram."

09:58AM 7 And then it reads that, "Thanks for bringing this account to
09:58AM 8 our attention. We have removed the account or disabled access
09:58AM 9 to it on Instagram."

09:58AM 10 Do you see that?

09:58AM 11 A Yes.

09:58AM 12 Q Who is this referring to?

09:58AM 13 A To Lindsey Kinney.

09:58AM 14 Q So Mr. Miske made an impersonation complaint on
09:58AM 15 Mr. Kinney's account?

09:58AM 16 A Yes.

09:58AM 17 Q Could we go to page 312. Actually, go back to 311.

09:58AM 18 So this is the message we just looked at, just blown
09:58AM 19 up, correct?

09:58AM 20 A Yes.

09:58AM 21 Q If we go to page 312 now. And then Mr. Miske says, "Don't
09:59AM 22 tell anyone though. Just play dumb. I don't want it to get
09:59AM 23 back to him."

09:59AM 24 Is he referring to the impersonation complaint?

09:59AM 25 A Yes.

09:59AM 1 Q You tell him he is an idol for taking Lindsey Kinney's
09:59AM 2 Instagram off?
09:59AM 3 A Yes.
09:59AM 4 Q Did it in fact get shut down?
09:59AM 5 A I think so.
09:59AM 6 Q And then Mr. Miske said, "I had to write a compelling
09:59AM 7 story and told IG, and I'm going to sue." Going down. And
09:59AM 8 then your response is, "LOL, you're bad."
09:59AM 9 This is all referring to getting Lindsey Kinney's
09:59AM 10 Instagram account taken down?
09:59AM 11 A Yes.
09:59AM 12 Q If we can go now to page 345. Zoom in on the second
10:00AM 13 message. Mr. Miske says, "One charge can be beatable, but they
10:00AM 14 going to go for 50 charges and offer to drop 25 and pleas to
10:00AM 15 25." What is Mr. Miske discussing here?
10:00AM 16 A I think about coming to jail.
10:00AM 17 Q The pending case against him?
10:00AM 18 A Yes.
10:00AM 19 Q Keep going down. And you say -- keep going down. They're
10:00AM 20 talking about ice head who sells pounds of ice over yours who
10:00AM 21 is someone who run a business. Keep going down. And then you
10:00AM 22 ask, "What 25 do they have? There is no way they can put 25
10:01AM 23 charges on us."
10:01AM 24 Do you see that?
10:01AM 25 A Yes.

10:01AM 1 Q You're discussing the pending investigation?

10:01AM 2 A Yes.

10:01AM 3 Q Keep going down. You say, "He just said he shot your ear
10:01AM 4 and my nose. The guy's obviously delusional here."

10:01AM 5 Who are you referring to here?

10:01AM 6 A To Lindsey.

10:01AM 7 Q Keep going down. Keep going down. Stop here. Mr. Miske
10:01AM 8 says, "I'm just saying it's not over."

10:01AM 9 This is all discussing the pending criminal
10:01AM 10 investigation against you?

10:01AM 11 A Yes.

10:01AM 12 Q Keep going down. Keep going down. Keep going down. Stop
10:02AM 13 here. Mr. Miske says, "That's why I tell you don't get into
10:02AM 14 trouble."

10:02AM 15 Do you see that?

10:02AM 16 A Yes.

10:02AM 17 Q "Because when they do, they quietly pull in your victims
10:02AM 18 and have them testify to assaults, robberies, etcetera. And
10:02AM 19 that's where the 50 comes into play."

10:02AM 20 Last week you testified to a number of assaults,
10:02AM 21 correct?

10:02AM 22 A Yes.

10:02AM 23 Q And those assaults that you talked about, who was paying
10:02AM 24 you to do those assaults?

10:02AM 25 A Mike.

10:02AM 1 Q Who was directing you to do those assaults?

10:02AM 2 A Mike.

10:02AM 3 Q Did you know any of the people that you were assaulting?

10:02AM 4 A No.

10:02AM 5 Q If we go now to page 370, zoom in on the bottom message.

10:03AM 6 Is this message from you?

10:03AM 7 A Yes.

10:03AM 8 Q "Bro, do you have a whip I can use for now? I can't drive

10:03AM 9 my car. Got to take it to the shop."

10:03AM 10 What are you talking about here?

10:03AM 11 A If there was one of the auction cars I can use. I'm

10:03AM 12 taking my regular car to the shop.

10:03AM 13 Q A whip is a car?

10:03AM 14 A Yes.

10:03AM 15 Q Scroll on down. Stop here. He says, "I'll ask Koa."

10:03AM 16 Do you know who Koa was?

10:03AM 17 A One of the boys that worked at the shop.

10:03AM 18 Q Would you on occasion borrow auction cars from him?

10:03AM 19 A Yes.

10:03AM 20 Q We can go to page 376. We zoom in on the first one. You

10:04AM 21 say, "Come watch me and Q lick the person at the fights."

10:04AM 22 Who are you referring to here?

10:04AM 23 A To Lindsey.

10:04AM 24 Q And when you say Q, who is that?

10:04AM 25 A Quinton.

10:04AM 1 Q Going down. You say, "Which one." Keep going down. Keep
10:04AM 2 going down. Keep going down. "Which location?" Mr. Miske
10:04AM 3 asks. Keep going down. And you say "Abe's."
10:05AM 4 What does that refer to?
10:05AM 5 A The chicken fights that are held at Abe's.
10:05AM 6 Q Is that where they would be located?
10:05AM 7 A Yes.
10:05AM 8 Q Keep going down. Mr. Miske says, "Okay, well let me know
10:05AM 9 what time." Keep going down. Keep going down. You say,
10:05AM 10 "Waiting for H and we out."
10:05AM 11 Who is H?
10:05AM 12 A I think that's Harry Boy, Harry Kauhi.
10:05AM 13 Q Keep going down. Then you say, "You like watch."
10:05AM 14 What does that refer to?
10:05AM 15 A I asked him if he wants to watch.
10:05AM 16 Q Watch the assault?
10:05AM 17 A Yes.
10:05AM 18 Q Keep going down. Stop here. Mr. Miske's response is,
10:05AM 19 "Have somebody FaceTime me. I'm eating brunch at the Four
10:05AM 20 Seasons right now. I forgot, it's Daniel's birthday." So he
10:05AM 21 wanted you to FaceTime.
10:05AM 22 Can you tell the jury what FaceTime is?
10:05AM 23 A It's a video chat.
10:06AM 24 Q So he could see it live?
10:06AM 25 A Yes.

10:06AM 1 Q Do you know who the Daniel is that's being referred to?

10:06AM 2 A I'm not sure.

10:06AM 3 Q Keep going down. You say, "shoots." Keep going down. He
10:06AM 4 says, "I don't think he is going to be there." Keep going
10:06AM 5 down. You say why? Keep going down. "He wasn't there the
10:06AM 6 last two weeks."

10:06AM 7 Who are you discussing there?

10:06AM 8 A Lindsey Kinney.

10:06AM 9 Q Keep going down. Keep going down. Keep going down. Keep
10:06AM 10 going down. Keep going down. So Mr. Miske is saying, "Can you
10:06AM 11 text me before anything happens? Text me if he is there."

10:06AM 12 What is he talking about?

10:06AM 13 A To let him know if Lindsey is there.

10:06AM 14 Q Keep going down. You say, yep. Keep going down. I will.
10:07AM 15 Keep going down. Stop here. "Make sure you strapping in case
10:07AM 16 they get plenty guys."

10:07AM 17 What does that refer to?

10:07AM 18 A I should have my gun on me in case there's a lot of guys.

10:07AM 19 Q Strapping is guns?

10:07AM 20 A Yes.

10:07AM 21 Q Keep going down. Keep going down. Keep going down. Keep
10:07AM 22 going down. "Did you guys film it?"

10:07AM 23 What is he asking here?

10:07AM 24 A If there was film of whatever happened at the fights.

10:07AM 25 Q Keep going down. Keep going down. Keep going down. Keep

10:07AM 1 going down. Keep going down. Keep going down. Stop here.

10:08AM 2 "He ran behind, like, 12 guys."

10:08AM 3 What are you talking about here?

10:08AM 4 A Lindsey ran behind a bunch of people when we pulled up on
10:08AM 5 him at the fights.

10:08AM 6 Q And you weren't able to assault him?

10:08AM 7 A No.

10:08AM 8 Q Keep going down. Keep going down. Keep going down. Keep
10:08AM 9 going down. Keep going down. Keep going down. Stop here.

10:08AM 10 This says "missed voice call"?

10:08AM 11 A Yes.

10:08AM 12 Q Would you also have voice calls with him over WhatsApp?

10:08AM 13 A Sometimes.

10:08AM 14 Q So you would text, like the ones we are seeing here, but
10:08AM 15 you would also have voice calls over WhatsApp?

10:08AM 16 A Sometimes.

10:08AM 17 Q Keep going down. Stop here. "Bro, two cops just went to
10:09AM 18 my chick's house asking who lives there, and they came, two
10:09AM 19 blue and whites. No one in uniform."

10:09AM 20 What are you discussing here?

10:09AM 21 A I said two cops came to the girl's house.

10:09AM 22 Q Are you concerned?

10:09AM 23 A Yes.

10:09AM 24 Q Keep going down. "Did your PO call?"

10:09AM 25 What does that refer to?

10:09AM 1 A My probation officer call me.

10:09AM 2 Q Keep going down. Keep going down. And Mr. Miske says,

10:09AM 3 "No worry about HPD." Keep going down. "They mailmen with

10:09AM 4 guns." Stop here. "FBI is the one."

10:09AM 5 Do you see that?

10:09AM 6 A Yes.

10:09AM 7 Q Would Mr. Miske tell you on this occasion and on others

10:10AM 8 that he was worried about the FBI?

10:10AM 9 A Yes.

10:10AM 10 Q If we go to page 394 now. Middle one. April 21, 2018,

10:10AM 11 Mr. Miske texts you, "Always be careful what you snap. Just

10:10AM 12 because it disappears from your screen doesn't mean a fed

10:10AM 13 subpoena won't make it reappear FYI."

10:10AM 14 Do you see that?

10:10AM 15 A Yes.

10:10AM 16 Q What is being discussed here?

10:10AM 17 A Be careful when posting Snapchat.

10:10AM 18 Q Did you have a Snapchat account?

10:10AM 19 A Yes.

10:10AM 20 Q What sorts of things would you post on Snapchat?

10:10AM 21 A Money, guns.

10:10AM 22 Q How does Snapchat work, to your knowledge?

10:10AM 23 A Your post goes on for a few second and it goes off.

10:11AM 24 Q When you posted those, was it your understanding that they

10:11AM 25 disappeared?

10:11AM 1 A Yes.

10:11AM 2 Q But Mr. Miske here is telling you to be careful of a fed
10:11AM 3 subpoena.

10:11AM 4 What did that refer to?

10:11AM 5 A That the feds can make it come back; bring it back up.

10:11AM 6 Q We can go now to page 395. First message. A couple of
10:11AM 7 days later, you are texting Mr. Miske, "Alen just went Fri,
10:11AM 8 Spiked in court today. LOL. We was supposed to go to trial.
10:11AM 9 Never even made 'em to trial."

10:11AM 10 What are you talking about here?

10:11AM 11 A The cop Spiker, we were in trial with him for the DUI and
10:11AM 12 we didn't make it to trial. Alen made him look dumb.

10:12AM 13 Q Is this the police officer you talked about last week that
10:12AM 14 Miske wanted you to assault?

10:12AM 15 A Yes.

10:12AM 16 Q Keep going down. Keep going down. Keep going down. Stop
10:12AM 17 here.

10:12AM 18 Here, you're telling him the name Spiker as in the
10:12AM 19 officer?

10:12AM 20 A Yes.

10:12AM 21 Q Keep going down. Keep going down. Keep going down. You
10:12AM 22 say, "He made him look dumb today on the stand."

10:12AM 23 What is this referring to?

10:12AM 24 A While we were in court, he made him look dumb while he was
10:12AM 25 on the stand.

10:12AM 1 Q Alen Kaneshiro did?

10:12AM 2 A Yes.

10:12AM 3 Q We now go to page 400. Start with the second message.

10:13AM 4 Miske says, "A guy by the name of Max Kim was apprehended. Two

10:13AM 5 of his friends got away but in his car had pictures of my

10:13AM 6 Portlock house. And my" -- scroll down -- "company trucks."

10:13AM 7 Scroll down. Scroll down. "Two of his friends get away."

10:13AM 8 Do you see that?

10:13AM 9 A Yes.

10:13AM 10 Q What's the reference to the Portlock house, if you know?

10:13AM 11 A The Hawaii Kai house that was being built.

10:13AM 12 Q Keep going down. You say, "You like me come meet you?"

10:13AM 13 Keep going down. "No, I got to find out who this is first."

10:13AM 14 Keep going down. "I'm going to be at the Bay this afternoon."

10:13AM 15 Keep going down. Mr. Miske says, "I went to the station to

10:14AM 16 bail out Max Kim but he wasn't there." Keep going down.

10:14AM 17 "Christmas come early."

10:14AM 18 What is he referring to there, if you know?

10:14AM 19 A I'm not sure. He tried to bail out Max Kim.

10:14AM 20 Q Keep going down. You say, "Who is he and what he did."

10:14AM 21 Keep going down. Mr. Miske explains, "In his car were pictures

10:14AM 22 of my house, pictures of my company, pictures of the shop. He

10:14AM 23 was stalking to do something. I don't know what yet but I will

10:14AM 24 find out." Keep going down. Keep going down. "LOL," you say.

10:14AM 25 Is LMK let me know?

10:14AM 1 A Let me know.

10:14AM 2 Q Keep going down. "I got that." Keep going down. Keep

10:14AM 3 going down. Keep going down. "Let me know for real. I'll

10:15AM 4 handle."

10:15AM 5 What are you referring to here?

10:15AM 6 A That I'll handle Max Kim.

10:15AM 7 Q What are you offering to do here?

10:15AM 8 A To assault him.

10:15AM 9 Q As you told us before, you were on call to do those sorts

10:15AM 10 of things?

10:15AM 11 A Yes.

10:15AM 12 Q Keep going down. He says, "I gotta find out where he

10:15AM 13 stay." Keep going down. Keep going down. Keep going down.

10:15AM 14 Are you still talking about Max Kim here?

10:15AM 15 A Yes.

10:15AM 16 Q Keep going down. Who is the Alen referred to here?

10:15AM 17 A Kaneshiro.

10:15AM 18 Q Keep going down. Keep going down. Keep going down. Keep

10:15AM 19 going down. Stop here.

10:16AM 20 Did you ever end up assaulting Max Kim?

10:16AM 21 A No.

10:16AM 22 Q We can go to page 417 now. Start on the second one.

10:16AM 23 Mr. Miske says, "I just left. Heading to doctor."

10:16AM 24 What would you guys refer to doctors as?

10:16AM 25 A Lawyers.

10:16AM 1 Q Keep going down. You ask, "All good?" Keep going down.

10:16AM 2 "LK better hope so."

10:16AM 3 Who is LK?

10:16AM 4 A Lindsey Kinney.

10:16AM 5 Q Keep going down. "Going to read some results now."

10:17AM 6 What did you take that to mean?

10:17AM 7 A He was going to meet with the lawyer about some stuff.

10:17AM 8 Q Keep going down. Keep going down. Keep going down. Keep

10:17AM 9 going down. Stop here. "Some good, some bad."

10:17AM 10 What did you take that to mean?

10:17AM 11 A He had some good information and some bad.

10:17AM 12 Q From his meeting with his attorneys?

10:17AM 13 A Yes.

10:17AM 14 Q Page 440. If we could start at the second to the last.

10:18AM 15 WYA, is that where you at?

10:18AM 16 A Yes.

10:18AM 17 Q Keep going down. It says, "Boy you always cruise with."

10:18AM 18 Do you know who that was referring to?

10:18AM 19 A No.

10:18AM 20 Q Keep going down. He says, "Got one fast one."

10:18AM 21 Do you know what that's referring to?

10:18AM 22 A I think an assault.

10:18AM 23 Q Keep going down. Keep going down. And then you say,

10:18AM 24 "Here with me."

10:18AM 25 Are you referring to the boy you cruise with?

10:18AM 1 A Yes.

10:18AM 2 Q Keep going down. He says, "Try bring him by the shop but
10:19AM 3 park underneath at the bank."

10:19AM 4 Do you see that?

10:19AM 5 A Yes.

10:19AM 6 Q What's that referring to?

10:19AM 7 A There was a bank next door. He was telling me to park
10:19AM 8 under the bank and walk to the shop.

10:19AM 9 Q Keep going down. Keep going down. Keep going down. Keep
10:19AM 10 going down. He is saying, "Haole cracks here."

10:19AM 11 What do cracks refer to?

10:19AM 12 A To assault someone.

10:19AM 13 Q Keep going down. "How far you?" Keep going down. You
10:19AM 14 say, "ten minutes."

10:19AM 15 Are you letting him know how far you are from the
10:19AM 16 shop?

10:19AM 17 A Yes.

10:19AM 18 Q His response is "try five. He about to dig."

10:20AM 19 Do you see that?

10:20AM 20 A Yes.

10:20AM 21 Q What is that referring to?

10:20AM 22 A He is about to leave.

10:20AM 23 Q The assault target?

10:20AM 24 A Yes.

10:20AM 25 Q Keep going down. Keep going down. Keep going down. "He

10:20AM 1 is on the move."

10:20AM 2 What is that referring to?

10:20AM 3 A That he's moving.

10:20AM 4 Q The assault target?

10:20AM 5 A Yes.

10:20AM 6 Q You're telling him you're here?

10:20AM 7 A Yes.

10:20AM 8 Q Keep going down. "We are in the bank." Keep going down.

10:20AM 9 Is this the bank next to the shop?

10:20AM 10 A Yes.

10:20AM 11 Q Keep going down. Scroll back up. "Like us walk to you?"

10:20AM 12 What are you saying there?

10:20AM 13 A If he wants us to meet him.

10:20AM 14 Q Keep going down. He says, "Nah, cameras."

10:21AM 15 Do you see that?

10:21AM 16 A Yes.

10:21AM 17 Q Do you know what he is referring to here?

10:21AM 18 A That there was cameras around.

10:21AM 19 Q Cameras around the shop?

10:21AM 20 A Some were from the bank, the walk to the shop.

10:21AM 21 Q Keep going down. So he tells you to hold?

10:21AM 22 A Yes.

10:21AM 23 Q Keep going down. "Be right there." Keep going down.

10:21AM 24 Stop here. "K. We are right there."

10:21AM 25 Do you think you ever assaulted the person that you

10:21AM 1 were tasked with on that day?

10:21AM 2 A No.

10:21AM 3 Q If we can now go to page 487. Zoom in on the last

10:22AM 4 message. This is now in August of 2018 -- this is now in 2018.

10:22AM 5 Is this right before you were arrested?

10:22AM 6 A Yes.

10:22AM 7 Q Mr. Miske says, "You know dummy got swooped up." Keep

10:22AM 8 going down. "Who dat bro." Keep going down. Keep going down.

10:22AM 9 Stop here. "Mills."

10:22AM 10 Who is that referring to?

10:22AM 11 A Wayne Miller.

10:22AM 12 Q What is this referring to, swooped up?

10:22AM 13 A He got picked up.

10:22AM 14 Q Arrested?

10:22AM 15 A Yes.

10:22AM 16 Q You asked, "for what." Keep going down. Keep going down.

10:23AM 17 It says "trafficking." Keep going down. Keep going down. You

10:23AM 18 ask, "What kind trafficking?" The response is "windows."

10:23AM 19 Did you know what that referred to?

10:23AM 20 A Yes.

10:23AM 21 Q What?

10:23AM 22 A Meth.

10:23AM 23 Q Keep going down. Keep going down. Keep going down. Keep

10:23AM 24 going down. Go up real quick. Sorry. It says "slam dunk

10:23AM 25 case."

10:23AM 1 What is that referring to?

10:23AM 2 A That he got caught red-handed and it was going to be an

10:23AM 3 easy case.

10:23AM 4 Q Wayne Miller?

10:23AM 5 A Yes.

10:23AM 6 Q Keep going down. And then you say "Who said." Keep going

10:24AM 7 down. And his response is "his girl."

10:24AM 8 Who is that referring to?

10:24AM 9 A To Miller's girl.

10:24AM 10 Q Keep going down. "He sold to them is what I heard."

10:24AM 11 What is that referring to?

10:24AM 12 A That he got control-buys. (Phonetic) He sold to one of

10:24AM 13 the feds.

10:24AM 14 Q Keep going down. Keep going down. Keep going down.

10:24AM 15 "Can't believe he would do that." Keep going down. Keep going

10:24AM 16 down. Keep going down. Stop here. "His G said he got set up

10:25AM 17 7/13."

10:25AM 18 Do you know what that's referring to?

10:25AM 19 A No.

10:25AM 20 Q Keep going down. Stop here. "Does he have a doctor?"

10:25AM 21 Do you see that?

10:25AM 22 A Yes.

10:25AM 23 Q What are you referring to when you say doctor?

10:25AM 24 A A lawyer.

10:25AM 25 Q Keep going down. Stop here. "Yeah. Public fed, but the

10:25AM 1 guy is a hammer."

10:25AM 2 Do you know what that's referring to?

10:25AM 3 A That he had a good federal defense lawyer, public
10:25AM 4 defender.

10:25AM 5 Q Keep going down. "My guy said if he was in trouble, he
10:25AM 6 would be happy with that office."

10:25AM 7 Do you know what he is referring to here when he says
10:25AM 8 "my guy"?

10:25AM 9 A No.

10:25AM 10 Q Keep going down. Keep going down.

10:25AM 11 Public defender, do you know what that is?

10:25AM 12 A Yes.

10:25AM 13 Q What is that?

10:26AM 14 A That's who was representing Miller.

10:26AM 15 Q Keep going down. Stop here. Mr. Miske tells you to keep
10:26AM 16 your eyes open and your head down.

10:26AM 17 Is he giving you instructions here?

10:26AM 18 A Yes.

10:26AM 19 Q To be careful?

10:26AM 20 A Yes.

10:26AM 21 Q Could we go down to page 502. Do you recognize -- if we
10:26AM 22 could zoom in.

10:26AM 23 Do you recognize what is shown in this photo?

10:26AM 24 A Yes.

10:26AM 25 Q What is shown in this photo?

10:26AM 1 A The Bay.

10:26AM 2 Q Is this where you and Mr. Miske would often hang out?

10:26AM 3 A Yes.

10:26AM 4 Q Switch gears now -- we can take that down.

10:27AM 5 THE COURT: If we are going to switch gears, then now

10:27AM 6 would probably be a good time to take a break. Then let's go

10:27AM 7 ahead and take our first break of the trial week, and as we do

10:27AM 8 so, I'll remind our jurors to please refrain from discussing

10:27AM 9 the substance of this case with anyone, including each other;

10:27AM 10 to refrain from accessing any media or other accounts of this

10:27AM 11 case that may be out there; and finally, please do not conduct

10:27AM 12 any independent investigation of your own into the facts,

10:27AM 13 circumstances, or persons involved.

10:27AM 14 Before we go to break and before I forget, we also

10:27AM 15 will be adjourning today a little bit early. At 1:00 there is

10:27AM 16 a juror that has a medical appointment that can not be easily

10:28AM 17 rescheduled, so we will adjourn at that time. So it's about

10:28AM 18 30 minutes before normal.

10:28AM 19 (Proceedings were recessed at 10:28 a.m. to 11:04

11:04AM 20 a.m.)

11:04AM 21 THE COURT: All right. Back from our first morning

11:04AM 22 break. Mr. Nammur, you may continue with your direct of

11:04AM 23 Mr. Smith when you are ready.

11:04AM 24 MR. NAMMAR: Thank you, Your Honor. Can we show the

11:04AM 25 witness only 1-1116 from our 13th supplemental list?

11:05AM 1 THE COURT: All right. Go ahead.

11:05AM 2 BY MR. NAMMAR:

11:05AM 3 Q Thank you. Mr. Smith, the name at the top, gingerbreadjr,

11:05AM 4 do you recognize that name?

11:05AM 5 A Yes.

11:05AM 6 Q What is that name?

11:05AM 7 A That's Lance Bermudez's Instagram account.

11:05AM 8 Q And if we can zoom in on the picture. Starting from left

11:05AM 9 to right, is there a person that has, like, their face half cut

11:05AM 10 off?

11:05AM 11 A Yes.

11:05AM 12 Q Do you recognize this person?

11:05AM 13 A Johnnie.

11:05AM 14 Q And then the person with the right with their hand up in

11:05AM 15 the back row, do you recognize that person?

11:05AM 16 A Frankie.

11:05AM 17 Q And then the other person in the back, do you recognize

11:06AM 18 that person?

11:06AM 19 A Looks like Keali'i.

11:06AM 20 Q And then the person here?

11:06AM 21 A Mike B.

11:06AM 22 Q And then the person here?

11:06AM 23 A Mike Miske.

11:06AM 24 MR. NAMMAR: Your Honor, I move to admit 1-1116.

11:06AM 25 THE COURT: Any objection?

11:06AM 1 MR. KENNEDY: No objection.

11:06AM 2 THE COURT: Exhibit 1-1116 then is admitted without
11:06AM 3 objection and you may show the jury.

11:06AM 4 (Exhibit 1-1116 was received in evidence.)

11:06AM 5 BY MR. NAMMAR:

11:06AM 6 Q If we can zoom out real quick. And zoom in on the
11:06AM 7 gingerbread. The jury can see it now.

11:06AM 8 Mr. Smith, can you tell us what gingerbreadjr2412 is?

11:06AM 9 A That's Lance Bermudez's Instagram account.

11:06AM 10 Q Okay. And then, can zoom out. If we can zoom in on the
11:06AM 11 text real quick.

11:06AM 12 So is this a post by Lance gingerbreadjr2412?

11:07AM 13 A Yes.

11:07AM 14 Q "When you got the top pics of every aspect in the streets
11:07AM 15 it's a valuable and dangerous asset. We're like AT&T. We
11:07AM 16 reach out." And then it does look like it's cut off.

11:07AM 17 A Yes.

11:07AM 18 Q If we can zoom out now. Zoom in on the picture. Walk
11:07AM 19 through the people that you can identify. This person on the
11:07AM 20 far left looks like their face is partly cut off. Who is that?

11:07AM 21 A Johnnie.

11:07AM 22 Q And then the person right next to him, it looks like they
11:07AM 23 are wearing a hat.

11:07AM 24 Who is that person?

11:07AM 25 A Kaulana.

11:07AM 1 Q And then the person in the front throwing the shaka?

11:07AM 2 A Isaiah.

11:07AM 3 Q Is that the Isaiah Bush you've talked about?

11:07AM 4 A Yes.

11:07AM 5 Q And then, going back up to the top row, third to the left,

11:07AM 6 who is that?

11:07AM 7 A Frankie.

11:07AM 8 Q The person right to the right of him?

11:07AM 9 A Lance.

11:07AM 10 Q Lance Bermudez?

11:07AM 11 A Yes.

11:07AM 12 Q And then the person to the right of him?

11:07AM 13 A Keali'i.

11:08AM 14 Q Keali'i Young?

11:08AM 15 A Yes.

11:08AM 16 Q And then the -- looks like the person without any hair to

11:08AM 17 the right of him?

11:08AM 18 A Mike B.

11:08AM 19 Q And then the person to the right of him?

11:08AM 20 A Mike Miske.

11:08AM 21 Q Do you recognize this person to the right of Mike Miske?

11:08AM 22 A No.

11:08AM 23 Q And then this other person on the end, do you recognize

11:08AM 24 that person?

11:08AM 25 A J Dog.

11:08AM 1 Q Did you say J Dog?

11:08AM 2 A Yes.

11:08AM 3 Q Is that Jason Medeiros?

11:08AM 4 A Yes.

11:08AM 5 Q That's the person on the far right with their face half

11:08AM 6 cut off?

11:08AM 7 A Yes.

11:08AM 8 Q Do you know where this picture is taken?

11:08AM 9 A I'm not sure.

11:08AM 10 Q We can take this down. You talked some last week about

11:08AM 11 the La Familia prison gang?

11:08AM 12 A Yes.

11:08AM 13 Q And I think you told us last week that you covered up your

11:08AM 14 tattoos. You no longer have them?

11:08AM 15 A Yes.

11:08AM 16 Q What does it mean to cover up a tattoo?

11:09AM 17 A That you are out of the gang.

11:09AM 18 Q When did you join La Familia?

11:09AM 19 A Sometime while I was in jail.

11:09AM 20 Q Why did you join La Familia in jail?

11:09AM 21 A The jail gang.

11:09AM 22 Q Does it offer you protection while you are in jail?

11:09AM 23 A Yes.

11:09AM 24 Q Any other crimes that you've testified to today or last

11:09AM 25 week, did any of them were any of them done for the benefit of

11:09AM 1 La Familia?

11:09AM 2 A No.

11:09AM 3 Q And have you heard of a gang called USO?

11:09AM 4 A Yes.

11:09AM 5 Q Is that another prison gang?

11:09AM 6 A Yes.

11:09AM 7 Q Were you ever associated or a member or prospect for that
11:09AM 8 gang?

11:09AM 9 A In the beginning, yes.

11:09AM 10 Q For how long?

11:09AM 11 A Not long at all.

11:09AM 12 Q Like, weeks?

11:09AM 13 A Yes.

11:09AM 14 Q Are you no longer affiliated with them either?

11:09AM 15 A No.

11:09AM 16 Q Any of the crimes that you've talked about today or last
11:09AM 17 week, were they ever done for the benefit of the USO gang?

11:09AM 18 A No.

11:10AM 19 Q Ever heard of a gang called the Shooter gang?

11:10AM 20 A My friend Lance used to say it all the time, but it's not
11:10AM 21 a real gang.

11:10AM 22 Q It's not a real gang?

11:10AM 23 A No.

11:10AM 24 Q You were not a part of it?

11:10AM 25 A No.

11:10AM 1 MR. NAMMAR: Can we show the witness only now, Your
11:10AM 2 Honor, Exhibit 1-1117 from the 13th supplemental?

11:10AM 3 THE COURT: Go ahead.

11:10AM 4 BY MR. NAMMAR:

11:10AM 5 Q Thank you. Mr. Smith, do you recognize what's shown in
11:10AM 6 this photo?

11:10AM 7 A Yes.

11:10AM 8 Q What is it?

11:10AM 9 A It was paperwork Mike was trying to send out to my pod to
11:10AM 10 stir up an incident in my pod. He was trying to show people I
11:10AM 11 was cooperating against him.

11:10AM 12 Q Did you receive this paperwork?

11:10AM 13 A Yes.

11:10AM 14 Q What did you do with it after you received it?

11:10AM 15 A I gave it to the lawyer.

11:11AM 16 MR. NAMMAR: Your Honor, move to admit 1-1117.

11:11AM 17 THE COURT: Any objection?

11:11AM 18 MR. KENNEDY: Lack of foundation, Your Honor.

11:11AM 19 THE COURT: Overruled. 1-1117 will be received into
11:11AM 20 evidence and you may publish it.

11:11AM 21 (Exhibit 1-1117 was received in evidence.)

11:11AM 22 BY MR. NAMMAR:

11:11AM 23 Q Thank you. Go ahead and publish it. Mr. Smith, the jury
11:11AM 24 can see it. There is a bunch of huge chunks of blacked-out
11:11AM 25 texts.

11:11AM 1 Were those blacked-out texts -- was that present when

11:11AM 2 you received this document?

11:11AM 3 A There was some -- there was words behind it.

11:11AM 4 Q Okay. There was words behind this document? What did the

11:11AM 5 words document?

11:11AM 6 A They were just talking about me proffering -- making a --

11:11AM 7 cooperating on Mike.

11:11AM 8 Q You making a statement to the FBI?

11:11AM 9 A Yes.

11:11AM 10 Q And you said when you received this document, you turned

11:12AM 11 it over to your lawyer?

11:12AM 12 A Yes.

11:12AM 13 Q Is that your name that appears here, Jacob Smith?

11:12AM 14 A Yes.

11:12AM 15 Q And does this report document an interview of you by the

11:12AM 16 FBI?

11:12AM 17 A Yes.

11:12AM 18 Q You testified that you thought that this was delivered to

11:12AM 19 you by Michael Miske.

11:12AM 20 Why did you think that?

11:12AM 21 A Because he gave it to somebody from his pod that was

11:12AM 22 moving up to our pod to spread around my pod.

11:12AM 23 Q Did you feel this was an attempt to intimidate you?

11:12AM 24 A Yes.

11:12AM 25 Q Now, this is a photograph of the document, right?

11:12AM 1 A Yes.

11:12AM 2 Q And it has -- is it ripped on the top left and top right?

11:12AM 3 A Yes.

11:12AM 4 Q Does it appear to be ripped across the entire top?

11:12AM 5 A Yes.

11:13AM 6 Q And if you look at the bottom, is it also ripped on the

11:13AM 7 bottom right and left?

11:13AM 8 A Yes.

11:13AM 9 Q What do you understand to be placed on those documents in

11:13AM 10 the bottom right and top?

11:13AM 11 A I think that anything that -- with his identification on

11:13AM 12 it is probably ripped off.

11:13AM 13 Q What do you mean by identification?

11:13AM 14 A Like his register number, or any of the numbers that are

11:13AM 15 affiliated to his paperwork.

11:13AM 16 MR. NAMMAR: Can we show the witness only now Your

11:13AM 17 Honor 1-1118 from the 13th supplemental?

11:13AM 18 THE COURT: Go ahead.

11:13AM 19 BY MR. NAMMAR:

11:13AM 20 Q Does this appear to be similar to what we just looked at

11:14AM 21 in 1-1117?

11:14AM 22 A Yes.

11:14AM 23 Q Does it have some additional markings that are at the top?

11:14AM 24 A Yes.

11:14AM 25 Q What do those markings say?

11:14AM 1 A For attorney custody only. Subject to protective order.

11:14AM 2 Q And in the bottom right, do you see some additional

11:14AM 3 markings?

11:14AM 4 A Yes.

11:14AM 5 Q What do those say?

11:14AM 6 A Says USA versus Mike Miske.

11:14AM 7 Q Does it have a number associated with it?

11:14AM 8 A Yes.

11:14AM 9 Q Going back now to 1-1117, if we can publish it, thank you.

11:14AM 10 Do you see those markings anywhere on this document?

11:14AM 11 A No.

11:14AM 12 Q Where did you first find this document?

11:14AM 13 A Somebody brought it up to our pod.

11:14AM 14 Q And gave it to you?

11:14AM 15 A Yes.

11:14AM 16 Q We can take that down. So we talked some about it, but I

11:15AM 17 want to switch gears now and ask you about some things you

11:15AM 18 received from Mr. Miske.

11:15AM 19 Would he let you borrow cars on occasion when you

11:15AM 20 needed them?

11:15AM 21 A Yes.

11:15AM 22 Q Were these the auction cars you referred to?

11:15AM 23 A Yes.

11:15AM 24 Q Would he sometimes let you borrow money?

11:15AM 25 A Yes.

11:15AM 1 Q Did he hire a lawyer for you?

11:15AM 2 A Yes.

11:15AM 3 Q Did he let you drink for free at his nightclub?

11:15AM 4 A Yes.

11:15AM 5 Q And did you do that a long time?

11:15AM 6 A While it was open, yes.

11:15AM 7 Q As you've talked about before, you received protection

11:15AM 8 from Mr. Miske?

11:15AM 9 A Yes.

11:15AM 10 Q Protection in the form of lawyers?

11:15AM 11 A Yes.

11:15AM 12 Q And protection from people you robbed because of

11:15AM 13 Mr. Miske's reputation?

11:15AM 14 A Yes.

11:15AM 15 Q Protection from drug traffickers you didn't pay because of

11:15AM 16 Mr. Miske's reputation?

11:16AM 17 A Yes.

11:16AM 18 Q Mr. Miske, did he let you borrow money for a deposit on an

11:16AM 19 apartment?

11:16AM 20 A Yes.

11:16AM 21 Q Were you aware that he also paid for Lance Bermudez's

11:16AM 22 attorney?

11:16AM 23 MR. KENNEDY: Objection on foundation, Your Honor.

11:16AM 24 THE COURT: The form of the question is fine.

11:16AM 25 Overruled. Go ahead.

11:16AM 1 THE WITNESS: Yes.

11:16AM 2 BY MR. NAMMAR:

11:16AM 3 Q Were you also aware that he paid for Dae Han Moon's
11:16AM 4 attorney?

11:16AM 5 A Yes.

11:16AM 6 Q And as you've testified to, he paid you for a number of
11:16AM 7 assaults?

11:16AM 8 A Yes.

11:16AM 9 Q And for all these things that you've talked about, you
11:16AM 10 were on call for him?

11:16AM 11 A Yes.

11:16AM 12 Q You were expected to break the law for him?

11:16AM 13 A Yes.

11:16AM 14 Q Expected to assault people?

11:16AM 15 A Yes.

11:16AM 16 Q Expected to commit other crimes for him?

11:16AM 17 A Yes.

11:16AM 18 Q Like the tear gas that you told us that you assisted in
11:16AM 19 with the nightclubs?

11:16AM 20 A Yes.

11:16AM 21 Q And like some of the robberies that you've talked about
11:16AM 22 with Teramoto and Chris Bourne?

11:16AM 23 A Yes.

11:17AM 24 Q Did you also -- besides the text messages we looked at,
11:17AM 25 did you have a number of in-person meetings with Mr. Miske?

11:17AM 1 A Yes.

11:17AM 2 Q And would Mr. Miske sometimes coordinate those meetings
11:17AM 3 with burner phones?

11:17AM 4 A Yes.

11:17AM 5 Q Would he sometimes coordinate those meetings over
11:17AM 6 WhatsApp?

11:17AM 7 A Yes.

11:17AM 8 Q And regarding burner phones, did he sometimes provide
11:17AM 9 those to you for free?

11:17AM 10 A Yes.

11:17AM 11 Q Did he appear to you to be paranoid about law enforcement
11:17AM 12 detection?

11:17AM 13 A Yes.

11:17AM 14 Q Were you one of Miske's trusted associates?

11:17AM 15 A Yes.

11:17AM 16 Q Who do you believe were some of his other most trusted
11:17AM 17 associates?

11:17AM 18 A Me, Miller, Lance, Johnnie, Kaulana.

11:17AM 19 Q Because you were part of his trusted circle, were certain
11:17AM 20 things expected of you?

11:17AM 21 A Yes.

11:17AM 22 Q Were you expected to assault people?

11:18AM 23 A Yes.

11:18AM 24 Q Were you expected to commit crime when asked for?

11:18AM 25 A Yes.

11:18AM 1 Q Were you expected to lie to law enforcement if needed?

11:18AM 2 A Yes.

11:18AM 3 Q Were you expected not to cooperate with law enforcement?

11:18AM 4 A Yes.

11:18AM 5 Q Were you expected not to question Mr. Miske?

11:18AM 6 A Yes.

11:18AM 7 Q And did you get some of the perks that we have talked

11:18AM 8 about for being in his trusted circle?

11:18AM 9 A Yes.

11:18AM 10 Q What was Mr. Miske's reputation?

11:18AM 11 A People were scared of him.

11:18AM 12 Q When you did not commit crime that Mr. Miske asked you to

11:18AM 13 do, do you feel like it hurt your status with him?

11:18AM 14 A Yes.

11:18AM 15 Q Can you give us an example of that?

11:18AM 16 A If I didn't do it, I wouldn't be able to make money. I

11:18AM 17 wouldn't do anymore jobs for him.

11:18AM 18 Q Did he ever tell you he was disappointed in you if you did

11:18AM 19 not commit a particular crime?

11:18AM 20 A Yes.

11:18AM 21 Q Did Mr. Miske appear to care about his reputation?

11:18AM 22 A Yes.

11:18AM 23 Q Did he appear to be the type of person that did not

11:19AM 24 forget?

11:19AM 25 A Yes.

11:19AM 1 Q Did you ever question who was the leader of the circle of
11:19AM 2 people that were surrounding Mr. Miske?
11:19AM 3 A No.
11:19AM 4 Q Who was the leader?
11:19AM 5 A Mike.
11:19AM 6 Q Anybody else have the power to direct people like
11:19AM 7 Mr. Miske did?
11:19AM 8 A No.
11:19AM 9 Q On law enforcement, did Mr. Miske ever give you any
11:19AM 10 instructions if law enforcement ever approached you?
11:19AM 11 A Yes.
11:19AM 12 Q What instructions did he give you?
11:19AM 13 A To call Alen.
11:19AM 14 Q And on the day you were arrested in August of 2018, did
11:19AM 15 you initially call Alen?
11:19AM 16 A Yes.
11:19AM 17 Q Did you later change your mind?
11:19AM 18 A Yes.
11:19AM 19 Q And reach out to a different attorney?
11:19AM 20 A Yes.
11:19AM 21 Q And on that day in August of 2018, did you immediately
11:19AM 22 begin cooperating?
11:19AM 23 A Yes.
11:19AM 24 Q And did you start the process of telling law enforcement
11:19AM 25 all the things that you did for Mr. Miske?

11:19AM 1 A Yes.

11:19AM 2 Q And in 2018, did you testify in the grand jury?

11:20AM 3 A Yes.

11:20AM 4 Q And in 2020, did you plead guilty?

11:20AM 5 A Yes.

11:20AM 6 Q And as we mentioned, your plea agreement requires you to
11:20AM 7 testify here today?

11:20AM 8 A Yes.

11:20AM 9 Q And you're testifying pursuant to that plea agreement?

11:20AM 10 A Yes.

11:20AM 11 MR. NAMMAR: Pass the witness, Your Honor.

11:20AM 12 THE COURT: Mr. Kennedy, cross-examination when you
11:20AM 13 are ready. As far as the schedule for today, since we are
11:20AM 14 going to go to break at 1:00, and we did not resume this
11:20AM 15 session until just after 11, I thought we would go from now
11:20AM 16 until 1:00. It's a little bit longer than what we are used to.
11:20AM 17 Ms. Bediamol, if that becomes an issue for you, please let me
11:20AM 18 know that. But otherwise, let's try to capture some of the
11:21AM 19 time that we are going to lose back from not taking a second
11:21AM 20 break in the trial day.

11:21AM 21 CROSS-EXAMINATION

11:21AM 22 BY MR. KENNEDY:

11:21AM 23 Q So I want to start by asking you some questions about
11:22AM 24 Kualoa Ranch, okay?

11:22AM 25 A Yes.

11:22AM 1 Q I want to take you right to that scene. You testified
11:22AM 2 about it.

11:22AM 3 You've been up here for three days, right?

11:22AM 4 A Yes.

11:22AM 5 Q And I heard you say to the jury that on the day that you
11:22AM 6 fired a round up into the air, Lindsey Kinney was closer to you
11:22AM 7 than I am right now, correct?

11:22AM 8 A He was about the same.

11:22AM 9 Q About the same. All right.

11:22AM 10 And so at that distance, I take it you fired a shot
11:22AM 11 into the air, right?

11:22AM 12 A Yes.

11:22AM 13 Q You didn't aim at him, right?

11:22AM 14 A We said the gun was pointed towards his direction but we
11:22AM 15 missed on purpose.

11:22AM 16 Q You missed him on purpose, correct?

11:22AM 17 A Yes.

11:22AM 18 Q You didn't shoot to hit him?

11:22AM 19 A No.

11:22AM 20 Q You fired a warning shot into the air?

11:22AM 21 A Yes.

11:22AM 22 Q Everybody got back into the cars?

11:23AM 23 A We waited for Johnnie.

11:23AM 24 Q And then you left?

11:23AM 25 A Yes.

11:23AM 1 Q And so the -- you've seen a picture on the other day of a
11:23AM 2 40 casing, right?

11:23AM 3 A No.

11:23AM 4 Q They didn't show you the casing?

11:23AM 5 A No.

11:23AM 6 Q You had a 40 that day, right?

11:23AM 7 A Yes.

11:23AM 8 Q You shot it up in the air?

11:23AM 9 A Yes.

11:23AM 10 Q You didn't shoot at him?

11:23AM 11 A No.

11:23AM 12 Q And that's what happened?

11:23AM 13 A Yes.

11:23AM 14 Q All right. No intent to kill, right?

11:23AM 15 A No.

11:23AM 16 Q No intent to even harm?

11:23AM 17 A No.

11:23AM 18 Q Talked about Counts 8 and 9 now. I want to take you to
11:23AM 19 August 14th of 2018, okay?

11:23AM 20 You were at a restaurant, right?

11:23AM 21 A I think so.

11:23AM 22 Q You don't remember the day you were arrested?

11:23AM 23 A The day I was arrested?

11:23AM 24 Q Yeah. You were dining at a restaurant with someone at
11:24AM 25 around 1:00 that afternoon, right?

11:24AM 1 A Yes.

11:24AM 2 Q And unbeknownst to you, the SWAT team had surrounded the
11:24AM 3 restaurant, right?

11:24AM 4 A Yes.

11:24AM 5 Q And so about 45 minutes later, you left the restaurant,
11:24AM 6 right?

11:24AM 7 A Yes.

11:24AM 8 Q You were walking to your vehicle, right?

11:24AM 9 A I was leaving the restaurant.

11:24AM 10 Q And you had a backpack, right?

11:24AM 11 A Yes.

11:24AM 12 Q A brown multi-colored backpack, right?

11:24AM 13 A Yes.

11:24AM 14 Q In your left hand as you walked there, correct?

11:24AM 15 A I don't recall.

11:24AM 16 Q And then the SWAT team moved in to arrest you right at
11:24AM 17 that vehicle, right?

11:24AM 18 A Yes.

11:24AM 19 Q And they told you to drop the backpack, drop the phones,
11:24AM 20 right?

11:24AM 21 A Yes.

11:24AM 22 Q And you did it, right?

11:24AM 23 A Yes.

11:24AM 24 Q Then they said, "Is that backpack yours?" And you said
11:24AM 25 no, right?

11:25AM 1 A I don't remember.

11:25AM 2 Q And that was a lie?

11:25AM 3 A I don't remember if I said it or not.

11:25AM 4 Q And you dropped the phones, right?

11:25AM 5 A I remember dropping the bag.

11:25AM 6 Q And that was a lie when you told them the phones weren't

11:25AM 7 yours as well, right?

11:25AM 8 A I don't know if I told them that or not.

11:25AM 9 Q Okay. Would it help refresh your recollection to take a

11:25AM 10 look at a report that you received in discovery?

11:25AM 11 A Sure.

11:25AM 12 Q All right.

11:25AM 13 MR. KENNEDY: If we can just pull up Exhibit 9013-063

11:25AM 14 which is in the original exhibit list, Your Honor.

11:25AM 15 THE COURT: Go ahead.

11:25AM 16 By MR. KENNEDY:

11:26AM 17 Q If we move to page two, paragraph three, just read that to

11:26AM 18 yourself. And when you are done let me know.

11:26AM 19 A I'm done.

11:26AM 20 Q All right. We can take that down. SWAT officer asked

11:26AM 21 you, "Is that your backpack?" And you said no, right?

11:26AM 22 A That's what it says.

11:26AM 23 Q They asked you if that was your phones and you said no,

11:26AM 24 right?

11:26AM 25 A That's what it says.

11:26AM 1 Q And both of those things were a lie when you said it,

11:26AM 2 right?

11:26AM 3 A If I said it. I don't remember saying it.

11:26AM 4 Q All right. So you know that inside the backpack --

11:26AM 5 eventually, they got a search warrant, right?

11:26AM 6 A Yes.

11:26AM 7 Q And inside that backpack you had a Glock 26 9-millimeter,

11:27AM 8 right?

11:27AM 9 A Yes.

11:27AM 10 Q And \$6,000 worth of cash, right?

11:27AM 11 A Yes.

11:27AM 12 Q You were a felon, right?

11:27AM 13 A Yes.

11:27AM 14 Q You were carrying a Glock?

11:27AM 15 A Yes.

11:27AM 16 Q When you were arrested?

11:27AM 17 A Yes.

11:27AM 18 Q A slam dunk case, right?

11:27AM 19 A I don't know. We never went -- we never went through with

11:27AM 20 it.

11:27AM 21 Q Never was charged with that, were you?

11:27AM 22 A What was that?

11:27AM 23 Q Never charged with that, were you?

11:27AM 24 A No.

11:27AM 25 Q All right. So at that very day on August 14th, they also

11:27AM 1 searched your apartment, right?

11:27AM 2 A Yes.

11:27AM 3 Q And that was over at 1088 Bishop Street?

11:27AM 4 A Yes.

11:27AM 5 Q Apartment 1502, right?

11:27AM 6 A I believe so.

11:27AM 7 Q And inside the apartment, you had an AK-47 with a drum
11:27AM 8 magazine, right?

11:27AM 9 A I had an extended magazine on it.

11:28AM 10 Q You had an extended and also a drum, right?

11:28AM 11 A Maybe. I don't remember.

11:28AM 12 Q You don't remember. Okay. Was that AK fully automatic?

11:28AM 13 A No.

11:28AM 14 Q Semiautomatic, right?

11:28AM 15 A Yes.

11:28AM 16 Q Assault rifle semiautomatic, right?

11:28AM 17 A Yes.

11:28AM 18 Q All right. And you had a number of loose rounds of 762
11:28AM 19 ammunition, didn't you?

11:28AM 20 A Yes.

11:28AM 21 Q All right. Now, moving to -- and that search was done,
11:28AM 22 correct? You saw the results of it, right, in your paperwork?

11:28AM 23 A No.

11:28AM 24 Q All right. Well let's take a look.

11:28AM 25 MR. KENNEDY: Let pull up 6023-0055 for the witness.

11:28AM 1 That should be in the original exhibit list as well, Your

11:29AM 2 Honor.

11:29AM 3 THE COURT: 6023?

11:29AM 4 MR. KENNEDY: Yes.

11:29AM 5 THE COURT: It's definitely not in the original.

11:29AM 6 MR. KENNEDY: My apologies. It's in the 12th, Your

11:29AM 7 Honor.

11:29AM 8 THE COURT: 12th?

11:29AM 9 MR. KENNEDY: Yes. My mistake. I thought it was in

11:29AM 10 the original.

11:29AM 11 THE COURT: Okay. Got it now, thank you.

11:29AM 12 By MR. KENNEDY:

11:29AM 13 Q If we can pull up 6023 and just go to 0055 for the

11:29AM 14 witness.

11:29AM 15 Sir, do you recognize what's shown in 6023-0055?

11:29AM 16 A Yes.

11:29AM 17 Q It's an AK47, right?

11:30AM 18 A Yes.

11:30AM 19 Q That was inside your apartment, right?

11:30AM 20 A Yes.

11:30AM 21 Q On August 14, 2018?

11:30AM 22 A Yes.

11:30AM 23 Q All right.

11:30AM 24 MR. KENNEDY: Can we publish 6023-0055, Your Honor? I

11:30AM 25 would move to admit it at this time.

11:30AM 1 THE COURT: That one page?

11:30AM 2 MR. KENNEDY: Yes. I have a series of them that I'm
11:30AM 3 going to go through.

11:30AM 4 THE COURT: Any objection to that one page?

11:30AM 5 MR. NAMMAR: No objection.

11:30AM 6 THE COURT: 6023-0055 is admitted.

11:30AM 7 (Exhibit 6023-0055 was received in evidence.)

11:30AM 8 MR. KENNEDY: May we publish it?

11:30AM 9 THE COURT: You may. We will figure out how to handle
11:30AM 10 this when you are done with the series.

11:30AM 11 MR. KENNEDY: And Your Honor, we can easily add an A
11:30AM 12 on to each one and then reconfigure it, if that would be
11:30AM 13 acceptable.

11:30AM 14 BY MR. KENNEDY:

11:30AM 15 Q So this is the AK-47 that you had, right?

11:31AM 16 A Yes.

11:31AM 17 Q And at the time, you are being arrested -- and we will get
11:31AM 18 to that -- for dealing drugs, right?

11:31AM 19 A Yes.

11:31AM 20 Q The AK-47 is part of what you possessed while you were
11:31AM 21 dealing drugs?

11:31AM 22 A Yes.

11:31AM 23 Q And it was part of what you possessed when you had been
11:31AM 24 robbing people, correct?

11:31AM 25 A Yes.

11:31AM 1 Q All right. If we go to 6023-0056.

11:31AM 2 What are we looking at here, sir?

11:31AM 3 A The same gun.

11:31AM 4 Q All right. Let's go to 6023-0058.

11:31AM 5 What are we looking at here?

11:31AM 6 A The same gun.

11:31AM 7 Q Let's go to 6023-0059.

11:31AM 8 What are we looking at here, sir?

11:32AM 9 A Same gun.

11:32AM 10 Q Go to 6023-0060.

11:32AM 11 What are we looking at here?

11:32AM 12 A Another picture of the gun.

11:32AM 13 MR. KENNEDY: At this time, Your Honor, I would move

11:32AM 14 6023-0056, 6023-0058, 6023-0059, and 6023-0060 into evidence.

11:32AM 15 THE COURT: Any objection to those four pages?

11:32AM 16 MR. NAMMAR: No, Your Honor.

11:32AM 17 THE COURT: All four pages of 6023 are admitted

11:32AM 18 without objection. That's dash 56, 58, 59, and 60. You may

11:32AM 19 publish.

11:32AM 20 (Exhibits 6023-56, 6023-58, 6023-0059, and 6023-0060 were

11:32AM 21 received in evidence.)

11:32AM 22 BY MR. KENNEDY:

11:32AM 23 Q If we start with 6023-0060, which is published.

11:32AM 24 Now, when we saw it before, this is the banana clip,

11:32AM 25 correct?

11:32AM 1 A Yes.

11:33AM 2 Q Which was in the gun when it was found, correct?

11:33AM 3 A Yes.

11:33AM 4 Q It appears to be fully loaded in the magazine?

11:33AM 5 A I don't know if it's fully loaded or not.

11:33AM 6 Q All right. Let's go to 6023-0059. This shows the AK-47
11:33AM 7 with a banana clip.

11:33AM 8 A Yes.

11:33AM 9 Q After its removal from the assault rifle?

11:33AM 10 A Yes.

11:33AM 11 Q 6023-0058 and 6023-0056. After you were arrested, you
11:33AM 12 learned that having this during and in relation to drug
11:33AM 13 trafficking is a federal crime, which is punishable by ten
11:33AM 14 years consecutive to any other sentence, didn't you?

11:34AM 15 A Didn't know that at all.

11:34AM 16 Q You never charged with that, were you, either?

11:34AM 17 A No.

11:34AM 18 Q So not charged with the Glock that you had in the backpack
11:34AM 19 at the restaurant that you were arrested with, correct?

11:34AM 20 A I'm not even sure.

11:34AM 21 Q Not charged with the AK-47 assault rifle, correct?

11:34AM 22 A I'm not sure.

11:34AM 23 Q You're not sure?

11:34AM 24 A No.

11:34AM 25 Q Never been charged with it, have you?

11:34AM 1 MR. NAMMAR: Asked and answered, Your Honor.

11:34AM 2 THE COURT: Go ahead. You may answer.

11:34AM 3 By MR. KENNEDY:

11:34AM 4 Q You're just not sure?

11:34AM 5 A Not sure.

11:34AM 6 Q We will take a look then. Okay. Let's go to 6023-0067.

11:34AM 7 Do you recognize this?

11:34AM 8 A Kind of, yeah.

11:34AM 9 Q It's a drum magazine, right?

11:34AM 10 A A drum.

11:34AM 11 Q Seized from your apartment, correct?

11:34AM 12 A Yes.

11:34AM 13 Q In your possession, right?

11:35AM 14 A In my apartment.

11:35AM 15 Q On August 14, 2018, with a federal search warrant, right?

11:35AM 16 A Yes.

11:35AM 17 MR. KENNEDY: All right. At this time I would move
11:35AM 18 6023-0067 into evidence.

11:35AM 19 THE COURT: Any objection?

11:35AM 20 MR. NAMMAR: No objection.

11:35AM 21 THE COURT: 6023-0067 is admitted without objection.
11:35AM 22 You may publish.

11:35AM 23 (Exhibit 6023-0067 was received in evidence.)

11:35AM 24 BY MR. KENNEDY:

11:35AM 25 Q So this is a drum magazine that goes along with it,

11:35AM 1 correct?

11:35AM 2 A I don't know if it goes along with it. It wasn't plugged
11:35AM 3 into the gun.

11:35AM 4 Q No, because the banana clip was in it, right?

11:35AM 5 A It could have been an extra piece.

11:35AM 6 Q All right. Let's take a look at 6023-0069. Do you
11:35AM 7 recognize that as a black magazine seized from your apartment
11:35AM 8 on August 14, 2018?

11:35AM 9 A I don't recognize it, but if it was there, it was there.

11:35AM 10 MR. KENNEDY: All right. At this time, I would move
11:36AM 11 6023-0069 into evidence.

11:36AM 12 MR. NAMMAR: Lack of foundation.

11:36AM 13 THE COURT: Sustained.

11:36AM 14 By MR. KENNEDY:

11:36AM 15 Q All right. Move to 6023-0081.

11:36AM 16 Do you recognize what's shown there?

11:36AM 17 A A gun case.

11:36AM 18 Q Was it a gun case for the nine-millimeter Glock that you
11:36AM 19 had?

11:36AM 20 A Maybe.

11:36AM 21 Q All right. Do you recognize you had that gun case inside
11:36AM 22 your apartment, correct?

11:36AM 23 A Yes.

11:36AM 24 MR. KENNEDY: I'd move 6023-0081 into evidence.

11:36AM 25 THE COURT: Any objection?

11:36AM 1 MR. NAMMAR: No objection.

11:36AM 2 THE COURT: 6023-81 is admitted. Yes, you may

11:36AM 3 publish.

11:36AM 4 (Exhibit 6023-0081 was received in evidence.)

11:36AM 5 BY MR. KENNEDY:

11:36AM 6 Q Could we pull up 6023-092.

11:37AM 7 Do you recognize what's shown in 6023-0092?

11:37AM 8 A Yes.

11:37AM 9 Q What is it?

11:37AM 10 A Rounds.

11:37AM 11 Q Seized from your apartment?

11:37AM 12 A I'm guessing.

11:37AM 13 Q You know you had ammunition in there.

11:37AM 14 Do you recognize it?

11:37AM 15 A I don't recognize it; it's been a while.

11:37AM 16 Q You haven't looked at this for a while?

11:37AM 17 A I haven't seen it.

11:37AM 18 Q As a felon, you weren't supposed to have ammunition,

11:37AM 19 correct?

11:37AM 20 A No.

11:37AM 21 Q All right. Are you aware that there were 30 rounds of

11:37AM 22 7.62 ammunition seized from your apartment during that search?

11:37AM 23 A I wasn't aware.

11:37AM 24 Q Let's move on to 6023-0095.

11:37AM 25 Do you recognize this?

11:37AM 1 A Yes.

11:37AM 2 Q It's from your apartment?

11:37AM 3 A I think so.

11:37AM 4 Q It's a scale, isn't it?

11:37AM 5 A Yes.

11:37AM 6 Q You used it with respect to your drug trade, did you not?

11:38AM 7 A Yes.

11:38AM 8 MR. KENNEDY: I move 6023-0095 into evidence.

11:38AM 9 THE COURT: Any objection?

11:38AM 10 MR. NAMMAR: No objection.

11:38AM 11 THE COURT: 6023-95 is admitted. You may publish.

11:38AM 12 (Exhibit 6023-0095 was received in evidence.)

11:38AM 13 BY MR. KENNEDY:

11:38AM 14 Q Moving on to 6023-0102.

11:38AM 15 Do you recognize what's shown in 6023-0102?

11:38AM 16 A A dollar bill.

11:38AM 17 Q All right. Do you see what's on the dollar bill?

11:38AM 18 A I don't see anything on the dollar bill.

11:38AM 19 Q Were you aware that the dollar bill had a white powder

11:38AM 20 residue on it?

11:38AM 21 A I'm aware of it now.

11:38AM 22 Q All right. And do you see what is shown in an item nine

11:39AM 23 there next to the dollar bill with the white powder residue?

11:39AM 24 A Yes.

11:39AM 25 Q There is a baggy, there's a straw, correct?

11:39AM 1 A Yes.

11:39AM 2 Q Do you recognize that as being inside your apartment when
11:39AM 3 it was seized on August 14, 2018?

11:39AM 4 A Yes.

11:39AM 5 MR. KENNEDY: I'd move 6023-0102 into evidence at this
11:39AM 6 time, Your Honor.

11:39AM 7 THE COURT: Any objection?

11:39AM 8 MR. NAMMAR: No objection.

11:39AM 9 THE COURT: 6023-102 is admitted. You may publish.

11:39AM 10 (Exhibit 6023-102 was received in evidence.)

11:39AM 11 BY MR. KENNEDY:

11:39AM 12 Q I think you gave some testimony that during 2018 you
11:39AM 13 became addicted to oxy, right?

11:39AM 14 A Yes.

11:39AM 15 Q Prior to that, going back to 2015 and getting out of high
11:39AM 16 school, I think you mentioned that you were a user of ice?

11:40AM 17 A Not really. Every now and then.

11:40AM 18 Q Cocaine?

11:40AM 19 A Not really. Every now and then.

11:40AM 20 Q Marijuana?

11:40AM 21 A Yes.

11:40AM 22 Q And other drugs?

11:40AM 23 A Yes.

11:40AM 24 Q Moving on to 6023-0136.

11:40AM 25 Do you recognize what's shown in 6023-0136?

11:40AM 1 A More rounds.

11:40AM 2 Q Do you recognize that from -- seized from your apartment?

11:40AM 3 A No, I don't remember.

11:40AM 4 Q Oh, you don't remember?

11:40AM 5 A No.

11:40AM 6 Q Do you remember having ammunition in your apartment?

11:40AM 7 A I remember I had guns.

11:40AM 8 Q Okay. All right. But you don't remember what's shown in

11:40AM 9 6023-0136?

11:40AM 10 A I can see it, but I don't remember it.

11:41AM 11 Q Okay. All right. Let's see if -- let's just move through

11:41AM 12 these and I'll ask some follow up. 6023-0149.

11:41AM 13 Do you recognize what's shown in 6023-0149?

11:41AM 14 A Yes.

11:41AM 15 Q What is it?

11:41AM 16 A A type of steroid.

11:41AM 17 Q All right. Do you recognize that as being in your

11:41AM 18 apartment and seized on August 14th?

11:41AM 19 A Yes.

11:41AM 20 Q 2018?

11:41AM 21 A Yes.

11:41AM 22 MR. KENNEDY: At this time I would move 6023-0149 into

11:41AM 23 evidence.

11:41AM 24 THE COURT: Any objection?

11:41AM 25 MR. NAMMAR: No objection.

11:41AM 1 THE COURT: 6023-149 is admitted. You may publish.

11:41AM 2 (Exhibit 6023-149 was received in evidence.)

11:41AM 3 BY MR. KENNEDY:

11:41AM 4 Q Moving on to 6023-0151.

11:42AM 5 Do you recognize what's shown in 6023-0151?

11:42AM 6 A Syringes for the steroids.

11:42AM 7 Q Do you recognize that photograph showing the syringes that

11:42AM 8 you had inside your apartment on August 14, 2018?

11:42AM 9 A No, I don't recognize it. I was not using the steroids.

11:42AM 10 There was a bunch of people at my house.

11:42AM 11 Q So you don't recognize this?

11:42AM 12 A No.

11:42AM 13 Q All right.

11:43AM 14 MR. KENNEDY: Now, let's pull up 9013-064 just for the

11:43AM 15 witness. Which should be in -- is it the 12th -- that should

11:43AM 16 be in the original one, Your Honor.

11:43AM 17 THE COURT: Go ahead.

11:43AM 18 By MR. KENNEDY:

11:43AM 19 Q Just take a moment and review the first page, and then let

11:43AM 20 me know when you are done.

11:43AM 21 A I'm done.

11:43AM 22 Q All right. If we move to the second page. And let me

11:44AM 23 know when you are done.

11:44AM 24 A Done.

11:44AM 25 Q All right. We can take that down now.

11:44AM 1 Does that refresh your recollection about the
11:44AM 2 ammunition that was seized from your apartment on August 14,
11:44AM 3 2018?

11:44AM 4 A Yes.

11:44AM 5 Q All right. Let me show you 6023-0092 then, which is not
11:44AM 6 yet in evidence.

11:44AM 7 Do you recognize that as Exhibit 7B in terms of the
11:44AM 8 evidence list of the ammunition seized from your apartment?

11:44AM 9 A I don't really recognize it. You said there was rounds in
11:45AM 10 the backpack. I didn't use the rounds. I don't recognize
11:45AM 11 them.

11:45AM 12 Q And if we go to 6023-0136.

11:45AM 13 Do you recognize that as some of the ammunition seized
11:45AM 14 from your apartment on August 14, 2018?

11:45AM 15 A I don't recognize it, but I could have had it.

11:45AM 16 MR. KENNEDY: Yeah. All right. Let's pull up just
11:45AM 17 for the witness, I think the government marked it 1-905M. And
11:45AM 18 I believe that's in the 13th government exhibit list.

11:45AM 19 THE COURT: Go ahead. I've got it.

11:45AM 20 By MR. KENNEDY:

11:46AM 21 Q I apologize, 1-905M as in Mary.

11:46AM 22 Do you recognize what's shown in 1-905M?

11:46AM 23 A Yes.

11:46AM 24 Q Do you recognize yourself?

11:46AM 25 A Yes.

11:46AM 1 Q Do you recognize the person next to you?

11:46AM 2 A Yes.

11:46AM 3 Q It's Lovelyn Duarte?

11:46AM 4 A Yes.

11:46AM 5 Q This was your girlfriend, right?

11:46AM 6 A Yes.

11:46AM 7 Q Do you recognize the firearm that you are pointing?

11:46AM 8 A Yes.

11:46AM 9 Q Is it a mini AR-15?

11:46AM 10 A Yes.

11:46AM 11 MR. KENNEDY: At this time, Your Honor, I would move

11:46AM 12 1-905M into evidence.

11:46AM 13 THE COURT: Any objection?

11:46AM 14 MR. NAMMAR: No objection.

11:46AM 15 THE COURT: 1-905M as in Mary is admitted, then

11:47AM 16 without objection you may publish it.

11:47AM 17 (Exhibit 1-905M was received in evidence.)

11:47AM 18 BY MR. KENNEDY:

11:47AM 19 Q Now, this was posted on social media, right?

11:47AM 20 A I don't know.

11:47AM 21 Q Now, this mini AR-15, you've given some testimony about

11:47AM 22 over the last three days, correct?

11:47AM 23 A It could be the AR-15; it could not be. It could be the

11:47AM 24 same one; it couldn't be.

11:47AM 25 Q So you had multiple ones?

11:47AM 1 A My friend did.

11:47AM 2 Q So you're pointing a mini AR-15 at a selfie?

11:47AM 3 A At a phone, yeah.

11:47AM 4 Q With Ms. Duarte, right?

11:47AM 5 A She is not pointing it. I'm pointing it, yeah.

11:47AM 6 Q Yes, you are, right? And she is with you during the

11:47AM 7 photograph, right?

11:47AM 8 A Yes.

11:47AM 9 Q All right. Now this was taken in 2016, right?

11:47AM 10 A I don't even know.

11:47AM 11 Q The jury will have the date on the 1-905. I want to ask

11:48AM 12 you about this. We see the mini AR-15. So in the Brandon Ota

11:48AM 13 robbery that you gave testimony about, you had the mini AR-15

11:48AM 14 that day, correct?

11:48AM 15 A We had a mini AR-15.

11:48AM 16 Q That's what you told the jury, right?

11:48AM 17 A Yes.

11:48AM 18 Q Okay. And so that's a robbery, right?

11:48AM 19 A Yes.

11:48AM 20 Q Federal robbery, right?

11:48AM 21 A I don't know if it's a federal robbery, but yes, it was a

11:48AM 22 robbery.

11:48AM 23 Q You are using a firearm during the robbery, right?

11:48AM 24 A Yes.

11:48AM 25 Q And so you became aware that that use of that firearm is

11:48AM 1 another ten-year consecutive sentence, correct?

11:48AM 2 A I did not become aware of that.

11:48AM 3 Q Never got charged with that either, did you?

11:49AM 4 A I'm not sure. No, I don't think so.

11:49AM 5 Q You've never had a charge which comes under 18 U.S.C. 924,

11:49AM 6 have you?

11:49AM 7 A I'm not sure.

11:49AM 8 Q Well, we will look as we go through. You're not sure.

11:49AM 9 A No.

11:49AM 10 Q All right. So this is now a second one. Ten plus ten, we

11:49AM 11 are at 20.

11:49AM 12 Now, I remember you giving testimony about a game room

11:49AM 13 robbery in Mapunapuna, correct?

11:49AM 14 A Yes.

11:49AM 15 Q You had the mini AR-15 during that robbery as well,

11:49AM 16 correct?

11:49AM 17 A Yes.

11:49AM 18 Q That was another robbery that you've talked about, right?

11:49AM 19 A Yes.

11:49AM 20 Q That, then, is a third 924C, ten years consecutive to any

11:49AM 21 other sentence you would receive, correct?

11:50AM 22 A I don't know.

11:50AM 23 Q Never been charged with that either, have you?

11:50AM 24 A No.

11:50AM 25 Q All right. Now, another Brandon -- Brandon Torres was a

11:50AM 1 robbery as well, right?

11:50AM 2 A Yes.

11:50AM 3 Q You were there, right?

11:50AM 4 A I was there.

11:50AM 5 Q Frankie Silva was there?

11:50AM 6 A Frank Silva was there.

11:50AM 7 Q And someone by the name of Mim was there as well, right?

11:50AM 8 A Yes.

11:50AM 9 Q During that robbery, there was the use of the AK-47?

11:50AM 10 A Yes.

11:50AM 11 Q So there was a use of the assault weapon during the

11:50AM 12 robbery that you participated in, correct?

11:50AM 13 A Yes.

11:50AM 14 Q The assault weapon you said is not fully automatic, right?

11:50AM 15 A No.

11:50AM 16 Q It's semiautomatic, right?

11:50AM 17 A Yes.

11:50AM 18 Q So that's another ten years. So now we are at ten plus

11:50AM 19 ten plus ten plus ten to 40, right?

11:50AM 20 MR. NAMMAR: Objection to counsel testifying. There

11:50AM 21 is no foundation for this.

11:50AM 22 THE COURT: Sustained.

11:51AM 23 By MR. KENNEDY:

11:51AM 24 Q You understand that you can be charged for these crimes,

11:51AM 25 right?

11:51AM 1 A Yes.

11:51AM 2 MR. NAMMAR: Objection to asked and answered.

11:51AM 3 By MR. KENNEDY:

11:51AM 4 Q And you have not?

11:51AM 5 A I don't know.

11:51AM 6 Q Sir, you would know whether you you've been charged with

11:51AM 7 crimes that require the judge to sentence you to 40 years

11:51AM 8 consecutive to any other charge?

11:51AM 9 MR. NAMMAR: Objection; lack of foundation.

11:51AM 10 THE COURT: Overruled. Go ahead.

11:51AM 11 THE WITNESS: Yeah.

11:51AM 12 By MR. KENNEDY:

11:51AM 13 Q Now, I heard about a robbery of Nico Carignan, right?

11:51AM 14 A Yeah.

11:51AM 15 Q And during that robbery, you said that yourself and Lance

11:51AM 16 and I believe you said John Stancil and others were armed.

11:52AM 17 A Yes.

11:52AM 18 Q During that robbery, are you aware that because you

11:52AM 19 brandished that weapon, you would be looking at seven years

11:52AM 20 consecutive to the 40. We are now up to 47 years?

11:52AM 21 MR. NAMMAR: Objection to counsel testifying. There

11:52AM 22 is no foundation for this.

11:52AM 23 THE COURT: Sustained.

11:52AM 24 By MR. KENNEDY:

11:52AM 25 Q Are you aware that in the robbery of Palani Mitchell, you

11:52AM 1 were also armed, correct?

11:52AM 2 A Yes.

11:52AM 3 Q And in that robbery, you brandished a weapon as well,
11:52AM 4 correct?

11:52AM 5 A I had a weapon, yes.

11:52AM 6 Q Because the object of it was to steal dope, right?

11:52AM 7 A Yes. I didn't have the gun pointed at nobody. I hit the
11:52AM 8 guy with my feet. I didn't use the gun to rob anybody.

11:53AM 9 Q Sir, you are aware that at least you had another five
11:53AM 10 years, maybe seven on top of that total, are you not?

11:53AM 11 MR. NAMMAR: Objection; no foundation.

11:53AM 12 THE COURT: Sustained.

11:53AM 13 By MR. KENNEDY:

11:53AM 14 Q In the other game room robbery, you provided a gun to
11:53AM 15 someone else, correct?

11:53AM 16 A Yes.

11:53AM 17 Q So you aided that person, correct?

11:53AM 18 A Yes.

11:53AM 19 Q Are you aware that that's another consecutive sentence?

11:53AM 20 A I was not aware.

11:53AM 21 Q What you were aware of is that you were facing charges
11:53AM 22 which we will get to that would put you away for the rest of
11:54AM 23 your natural life, correct?

11:54AM 24 A I wasn't aware of that either.

11:54AM 25 Q You became aware of it later, right?

11:54AM 1 A Not really. I thought we had a lawyer to fix that.

11:54AM 2 Q All right. Let's take a look at 1-905F.

11:54AM 3 Do you recognize what's shown in 1-905F?

11:54AM 4 A Yes.

11:54AM 5 Q What is it?

11:54AM 6 A Looks like ice.

11:54AM 7 MR. KENNEDY: At this time, Your Honor, I would move
11:54AM 8 1-905F into evidence.

11:54AM 9 THE COURT: Any objection, counsel?

11:54AM 10 MR. NAMMAR: No objection.

11:54AM 11 THE COURT: 905F -- that's 1-905F as in frank is
11:54AM 12 admitted. You may publish.

11:54AM 13 (Exhibit 1-905F was received in evidence.)

11:54AM 14 BY MR. KENNEDY:

11:54AM 15 Q So this is ice?

11:55AM 16 A Looks like it.

11:55AM 17 Q Meth?

11:55AM 18 A Looks like it.

11:55AM 19 Q 905 is an exhibit that comes from a phone that Lovelyn
11:55AM 20 Duarte gave the authorities in December of 2016, correct?

11:55AM 21 A I don't know.

11:55AM 22 Q You've been testifying about photographs and other things
11:55AM 23 from 905, right?

11:55AM 24 A Yes.

11:55AM 25 Q You remember that you were arrested in December of 2016,

11:55AM 1 and you remember that Ms. Duarte gave them a phone that you
11:55AM 2 used, correct?
11:55AM 3 A I think so.
11:55AM 4 Q And so on this phone is ice that you had to sell, right?
11:55AM 5 A That was from somebody who we probably robbed.
11:55AM 6 Q So you robbed them to get ice to give it to someone to
11:55AM 7 sell to make money?
11:55AM 8 A Yes.
11:55AM 9 Q Moving on to 1-905G.
11:56AM 10 Do you recognize what's shown in 1-905G?
11:56AM 11 A Yes.
11:56AM 12 Q What is it?
11:56AM 13 A Money.
11:56AM 14 MR. KENNEDY: I'd move 1-905G into evidence, Your
11:56AM 15 Honor.
11:56AM 16 THE COURT: Any objection?
11:56AM 17 MR. NAMMAR: No objection.
11:56AM 18 THE COURT: 1-905G is admitted. You may show it to
11:56AM 19 the jury.
11:56AM 20 (Exhibit 1-905G was received in evidence.)
11:56AM 21 By MR. KENNEDY:
11:56AM 22 Q So this is money, right?
11:56AM 23 A Um-hm.
11:56AM 24 Q That you made, right?
11:56AM 25 A Um-hm.

11:56AM 1 Q Either stealing it, right?

11:56AM 2 A Yeah.

11:56AM 3 Q Stealing drugs and selling it?

11:56AM 4 A Assaults.

11:56AM 5 Q Assaults?

11:56AM 6 A Um-hm.

11:56AM 7 Q We will get to that. We will get to that, sir.

11:57AM 8 But I understood listening over the past few days that
11:57AM 9 you purchased a lot of drugs during that time from numerous
11:57AM 10 sources, right?

11:57AM 11 A Sometimes.

11:57AM 12 Q And trafficking, right?

11:57AM 13 A Yes.

11:57AM 14 Q Stole a lot of drugs when you didn't have money to
11:57AM 15 purchase it, right?

11:57AM 16 A Yes.

11:57AM 17 Q And sold it?

11:57AM 18 A Yes.

11:57AM 19 Q And that's how you made your money?

11:57AM 20 A Yes.

11:57AM 21 Q And so this is how you made your money, and you are
11:57AM 22 showing it in a photograph that was posted, right?

11:57AM 23 A Yes.

11:57AM 24 Q To build your reputation, right?

11:57AM 25 A I don't know if it was posted on social media or not. I

11:57AM 1 just know it was on the phone.

11:57AM 2 Q In the phone that Ms. Duarte gave the authorities?

11:57AM 3 A That's what you are telling me.

11:57AM 4 Q In 2016?

11:57AM 5 A That's what you said.

11:57AM 6 Q Let's move to 1-905H.

11:58AM 7 Do you recognize 1-905H?

11:58AM 8 A Yes.

11:58AM 9 Q What is it?

11:58AM 10 A It looks like cocaine and money.

11:58AM 11 MR. KENNEDY: All right. I move 1-905H into evidence.

11:58AM 12 THE COURT: Mr. Nammar, any objection?

11:58AM 13 MR. NAMMAR: No objection.

11:58AM 14 THE COURT: 1-905H is admitted. You may publish.

11:58AM 15 (Exhibit 1-905H was received in evidence.)

11:58AM 16 BY MR. KENNEDY:

11:58AM 17 Q So now, this is cocaine?

11:58AM 18 A That's what it looks like.

11:58AM 19 Q Another drug that you were trafficking in?

11:58AM 20 A I wasn't trafficking in it. That's just what we got.

11:58AM 21 Q And this is some money from your drug trafficking, right?

11:58AM 22 A That is some money from the robbery.

11:59AM 23 Q So it's a robbery of which you obtained money?

11:59AM 24 A Yes.

11:59AM 25 Q Moving on to 1-905I. What are we looking at here, sir?

11:59AM 1 A Looks like more coke.

11:59AM 2 Q What's that?

11:59AM 3 A Looks like cocaine.

11:59AM 4 MR. KENNEDY: All right. Move 1-905I into evidence.

11:59AM 5 THE COURT: Any objection?

11:59AM 6 MR. NAMMAR: No objection.

11:59AM 7 THE COURT: 1-905I is admitted. You may publish.

11:59AM 8 (Exhibit 1-905I was received in evidence.)

11:59AM 9 BY MR. KENNEDY:

11:59AM 10 Q So this is additional cocaine, correct?

11:59AM 11 A That's the same cocaine.

11:59AM 12 Q It's the same?

11:59AM 13 A It's the same one.

11:59AM 14 Q To be sold, correct?

11:59AM 15 A I didn't know what we was going to do with it yet. We

11:59AM 16 just got it and we were splitting it.

11:59AM 17 Q So this is the proceeds of robbery, right?

11:59AM 18 A Yes.

11:59AM 19 Q You are robbing the people to obtain drugs, right?

12:00PM 20 A Yes.

12:00PM 21 Q Then to sell it, right?

12:00PM 22 A Yes.

12:00PM 23 Q To make money, right?

12:00PM 24 A Yes.

12:00PM 25 Q Let's move on to 1-905N.

12:00PM 1 What are we looking at here, sir?

12:00PM 2 A Two guns.

12:00PM 3 Q Do you recognize the guns?

12:00PM 4 A Not really, but I know we could have had them.

12:00PM 5 Q Do you recognize the guns from the Mocheese (phonetic) or
12:00PM 6 Mocheesie robbery you discussed to the jury?

12:00PM 7 A Yes, maybe.

12:00PM 8 MR. KENNEDY: At this time, I would move 1-905N into
12:00PM 9 evidence.

12:00PM 10 THE COURT: Any objection?

12:00PM 11 MR. NAMMAR: No objection.

12:00PM 12 THE COURT: 1-905N as in Nancy is admitted. You may
12:00PM 13 publish.

12:00PM 14 (Exhibit 1-905N was received in evidence.)

12:00PM 15 BY MR. KENNEDY:

12:00PM 16 Q So in addition to robbing for guns, robbing for drugs, and
12:00PM 17 robbing for chains, and robbing for cash, this is an example of
12:01PM 18 taking a gun, correct?

12:01PM 19 A Yes.

12:01PM 20 Q And so you got -- I remember you telling us that you got
12:01PM 21 guns from Mocheesie (phonetic), correct?

12:01PM 22 A Yes.

12:01PM 23 Q And so you're posting this on social media afterwards to
12:01PM 24 boost your reputation, right?

12:01PM 25 A I don't know if I posted it on social media.

12:01PM 1 Q But these are guns that you acquired by robbing?

12:01PM 2 A One of them is, I think.

12:01PM 3 Q Let's look at 1-938D.

12:01PM 4 Do you recognize what's shown in 1-938D?

12:01PM 5 A Yes.

12:01PM 6 Q What is it?

12:01PM 7 A Marijuana.

12:01PM 8 Q Is this also proceeds of a robbery?

12:02PM 9 A It could be.

12:02PM 10 Q Or proceeds as something you purchased to sell?

12:02PM 11 A Could be.

12:02PM 12 MR. KENNEDY: At this time, I would move 1-938D into
12:02PM 13 evidence.

12:02PM 14 THE COURT: Any objection?

12:02PM 15 MR. NAMMAR: No objection.

12:02PM 16 THE COURT: 1-938D as in delta is admitted. You may
12:02PM 17 publish.

12:02PM 18 (Exhibit 1-938D was received in evidence.)

12:02PM 19 BY MR. KENNEDY:

12:02PM 20 Q So now we have seen meth or ice, we have seen cocaine, and
12:02PM 21 we have seen marijuana, which is all you have to sell, right?

12:02PM 22 A Some of it, yeah.

12:02PM 23 Q 1-938E. Do you recognize 1-938E?

12:02PM 24 A Yes.

12:02PM 25 Q Who is on the far left?

12:03PM 1 A Keoni Adric.

12:03PM 2 Q Who is next to Keoni Adric?

12:03PM 3 A Dane.

12:03PM 4 Q I'm sorry?

12:03PM 5 A Dane.

12:03PM 6 Q Do you see yourself?

12:03PM 7 A Yes.

12:03PM 8 Q Who is next to you?

12:03PM 9 A Rocky.

12:03PM 10 Q Who is next to -- did you say Rocky?

12:03PM 11 A Rocky.

12:03PM 12 Q Who is next to him?

12:03PM 13 A Johnnie.

12:03PM 14 Q And who's next to Johnnie?

12:03PM 15 A Keali'i.

12:03PM 16 Q Who is next to Keali'i?

12:03PM 17 A I don't know.

12:03PM 18 MR. KENNEDY: At this time I move 1-938E into

12:03PM 19 evidence.

12:03PM 20 THE COURT: Mr. Nammar, any objection?

12:03PM 21 MR. NAMMAR: No objection.

12:03PM 22 THE COURT: 1-938E as in echo is admitted.

12:03PM 23 (Exhibit 1-938E was received in evidence.)

12:03PM 24 MR. KENNEDY: May we publish?

12:03PM 25 THE COURT: Yes.

12:03PM 1 By MR. KENNEDY:

12:03PM 2 Q All right. So these are for the jury. On the far left if
12:03PM 3 I just put a checkmark there, and then I'll take it away.

12:03PM 4 Who is that, sir?

12:03PM 5 A Keoni Adric.

12:04PM 6 Q This is the Keoni Adric that you have discussed, right?

12:04PM 7 A Yes.

12:04PM 8 Q I think we saw a text today about Keoni Adric from Mike
12:04PM 9 Miske about you be safe, don't drive, right?

12:04PM 10 A I'm not sure.

12:04PM 11 Q And that was because at that time, you didn't have your
12:04PM 12 license, and so Keoni Adric did. So he was telling you, let
12:04PM 13 him drive.

12:04PM 14 Do you recall that?

12:04PM 15 A I don't know what he was telling me.

12:04PM 16 Q All right. Who is next to Keoni Adric then?

12:04PM 17 A Dane.

12:04PM 18 Q And so this would be Dane; is that correct?

12:04PM 19 A Yes.

12:04PM 20 Q All right. And here?

12:04PM 21 A That's me.

12:04PM 22 Q And next to you is this Rocky?

12:04PM 23 A Rocky.

12:04PM 24 Q Okay. And the jury will recognize, this is Mr. Stancil.

12:04PM 25 Johnnie?

12:04PM 1 A Yes.

12:04PM 2 Q All right. And who is next to Johnnie right here?

12:05PM 3 A Keali'i.

12:05PM 4 Q Keali'i Young?

12:05PM 5 A Yes.

12:05PM 6 Q And sometimes also referred to as Keali'i Foster, right?

12:05PM 7 A Yes.

12:05PM 8 Q You knew him as Keali'i Young, right?

12:05PM 9 A Keali'i Young.

12:05PM 10 Q And I believe this individual here, you said you didn't

12:05PM 11 recognize?

12:05PM 12 A I don't know who that is.

12:05PM 13 Q We can take that down.

12:05PM 14 MR. KENNEDY: Move on to 1-956L, which I believe is

12:05PM 15 also in the 13th. I can check, Your Honor, but I believe it

12:05PM 16 is.

12:05PM 17 THE COURT: It is. Go ahead.

12:05PM 18 By MR. KENNEDY:

12:05PM 19 Q Do you recognize what's shown in 1-956L, sir?

12:05PM 20 A A gun.

12:05PM 21 Q What type of gun?

12:05PM 22 A I don't know what type of gun it was. It was a gun I got

12:05PM 23 from a friend of mine.

12:05PM 24 Q So this is a gun that you got from a friend of yours,

12:06PM 25 right?

12:06PM 1 A Yes.

12:06PM 2 MR. KENNEDY: All right. I'd move 1-956L into

12:06PM 3 evidence.

12:06PM 4 THE COURT: Any objection?

12:06PM 5 MR. NAMMAR: No objection.

12:06PM 6 THE COURT: 1-956L is admitted. You may publish.

12:06PM 7 (Exhibit 1-956L was received in evidence.)

12:06PM 8 BY MR. KENNEDY:

12:06PM 9 Q Thank you. So now, this is another gun that you received

12:06PM 10 from a friend of yours, right?

12:06PM 11 A Yes.

12:06PM 12 Q And have you fired this gun?

12:06PM 13 A No.

12:06PM 14 Q I understand you used to go out and fire the assault

12:06PM 15 rifles with Keali'i Young, right?

12:06PM 16 A What assault rifles?

12:06PM 17 Q I'm sorry?

12:06PM 18 A What assault rifles?

12:06PM 19 Q Say, the AK-47?

12:06PM 20 A I never did go shoot anything with Keali'i Young. I fired

12:06PM 21 the AK-47 maybe one time.

12:06PM 22 Q One time? Okay. You never shot anything with Keali'i

12:06PM 23 Young?

12:06PM 24 A Not much, I don't remember shooting anything with Keali'i

12:06PM 25 Young.

12:06PM 1 Q Did you tell the authorities that you did?

12:06PM 2 A We seen Keali'i shoot. I wasn't shooting with him.

12:06PM 3 Q So this is a gun that you had in your possession while you

12:07PM 4 were dealing the drugs that we have seen and the robberies you

12:07PM 5 were doing?

12:07PM 6 A I had the gun, yeah.

12:07PM 7 MR. KENNEDY: Let's move on to 1-956Q.

12:07PM 8 THE COURT: Go ahead.

12:07PM 9 MR. KENNEDY: Also in the 13th.

12:07PM 10 THE COURT: Yes, thanks.

12:07PM 11 By MR. KENNEDY:

12:07PM 12 Q All right. Do you recognize the three individuals in this

12:07PM 13 photograph?

12:07PM 14 A Yes.

12:07PM 15 Q Do you recognize yourself?

12:07PM 16 A Yes.

12:07PM 17 Q Do you recognize John Stancil?

12:07PM 18 A Yes.

12:07PM 19 Q And do you recognize the person to your right?

12:07PM 20 A Yes.

12:07PM 21 Q Who is that?

12:07PM 22 A Cody.

12:07PM 23 Q Cody who?

12:07PM 24 A Stancil.

12:07PM 25 MR. KENNEDY: Okay. I move 1-956Q into evidence.

12:07PM 1 THE COURT: Any objection?

12:07PM 2 MR. NAMMAR: No objection.

12:07PM 3 THE COURT: 1-956Q is admitted. You may publish.

12:07PM 4 (Exhibit 1-956Q was received in evidence.)

12:07PM 5 BY MR. KENNEDY:

12:07PM 6 Q Okay. So you are here, sir?

12:08PM 7 A Yes.

12:08PM 8 Q Mr. Stancil, Johnnie Stancil to your left?

12:08PM 9 A Yes.

12:08PM 10 Q And Cody Stancil to your right?

12:08PM 11 A Yes.

12:08PM 12 Q All right. We can take that down. Now, on August 14th of

12:08PM 13 2018 when you were arrested, you were charged in a criminal

12:08PM 14 complaint; do you recall that?

12:08PM 15 A I'm not too sure what I was charged with.

12:08PM 16 Q Okay. You were charged, right? You were arrested and

12:08PM 17 charged, correct?

12:08PM 18 A I was arrested.

12:08PM 19 Q Okay. You were arrested with someone that you -- in

12:09PM 20 related to this charge, you've talked about, correct?

12:09PM 21 A I was arrested with who?

12:09PM 22 Q Have you discussed somebody by the name of Timmy or Timmy

12:09PM 23 Taboada?

12:09PM 24 A We discussed him but I didn't even know he was arrested

12:09PM 25 that morning.

12:09PM 1 Q So you were charged with Timmy or Timothy Taboada as your
12:09PM 2 codefendant, right?

12:09PM 3 A Yes.

12:09PM 4 Q And Nicole or Nicky Zapata, right?

12:09PM 5 A I think so.

12:09PM 6 Q All right. We will look at the documents, but the three
12:09PM 7 of you were charged originally, right?

12:09PM 8 A I think so, yeah.

12:09PM 9 Q And you know you were charged because you came to court.

12:09PM 10 They gave you the document and at a certain point, you
12:09PM 11 read it, right?

12:09PM 12 A I think so.

12:09PM 13 Q So what that charge dealt with is you talked about today,
12:10PM 14 that we saw some text messages between yourself and Mr. Miske;
12:10PM 15 do you recall that?

12:10PM 16 A Yes.

12:10PM 17 Q And we saw a lot of them today, right?

12:10PM 18 A Yes.

12:10PM 19 Q Some of them were 500 pages long, right?

12:10PM 20 A They were long.

12:10PM 21 Q And we were scrolling through them fast, right?

12:10PM 22 A Yes.

12:10PM 23 Q So near the end, there was a charge -- there was some text
12:10PM 24 messages about how Wayne Miller had been charged for drug
12:10PM 25 trafficking, right?

12:10PM 1 A Um-hm.

12:10PM 2 Q And that he had sold to an undercover, correct?

12:10PM 3 A Yes.

12:10PM 4 Q And that it was a slam dunk case, right?

12:10PM 5 A Yes.

12:10PM 6 Q And you were talking about that and Mr. Miske was

12:10PM 7 surprised in those text messages that that had happened; did

12:10PM 8 you see that?

12:10PM 9 A I don't know if he was surprised or he wasn't.

12:10PM 10 Q All right. So with respect to you, you were charged

12:10PM 11 with -- on February 9th of 2018, selling to a person working

12:11PM 12 for the government, right? A confidential informant, right?

12:11PM 13 A Not me myself, no. And I didn't see any of that.

12:11PM 14 Q So you -- so on February 9th, what happened was, you've

12:11PM 15 told the jury that all these drugs that you were robbing and

12:11PM 16 getting, you gave to Timmy Tabouada to sell, right?

12:11PM 17 A Um-hm.

12:11PM 18 Q So on that day, both you and he go to make a sale, right?

12:11PM 19 A Yes.

12:11PM 20 Q He goes over to talk to the person who is going to buy,

12:11PM 21 right?

12:11PM 22 A I don't know.

12:11PM 23 Q Unbeknownst to you, that person is working for the

12:11PM 24 government, right?

12:11PM 25 A I guess, that's what you are saying.

12:11PM 1 Q Taboada comes back to you to get the drugs to sell to him,
12:11PM 2 right?
12:11PM 3 A I don't know. I don't even remember the exact day.
12:12PM 4 Q Then he goes over there and sells those drugs, right?
12:12PM 5 A I'm guessing that's what you are saying.
12:12PM 6 Q And those drugs included an amount that will get you ten
12:12PM 7 years in prison at a minimum, right?
12:12PM 8 A I don't know what the amount was.
12:12PM 9 Q And then it could go up to life, right?
12:12PM 10 A I don't know what the amount was.
12:12PM 11 Q Well, let's take a look at Exhibit 9013-037, which is in
12:12PM 12 the original exhibit list.
12:12PM 13 THE COURT: Okay. Go ahead.
12:13PM 14 By MR. KENNEDY:
12:13PM 15 Q Sir, do you see Exhibit 9013-037?
12:13PM 16 A Yes.
12:13PM 17 Q Do you see that it's a criminal complaint against you?
12:13PM 18 A Yes.
12:13PM 19 Q Timothy Taboada?
12:13PM 20 A Yes.
12:13PM 21 Q And a Catherine Nicole Zapata, correct?
12:13PM 22 A Yes.
12:13PM 23 Q Let's move to the second page. Take a look at count one.
12:13PM 24 Just read that to yourself.
12:13PM 25 Have you done so?

12:13PM 1 A I did it.

12:13PM 2 Q All right. And take a look at count two.

12:13PM 3 Have you read that as well?

12:14PM 4 A I've read it.

12:14PM 5 Q Okay. We can take that down for the time being. So you

12:14PM 6 are aware that what you were charged with was a sale by you and

12:14PM 7 Mr. Taboada of drugs on February 9th of 2018, correct?

12:14PM 8 A I'm aware that we were on a conspiracy right there.

12:14PM 9 Q Well, let's just pull up 9013-037 up again. Go to page

12:14PM 10 two.

12:14PM 11 Does it say that you are charged with knowingly and

12:14PM 12 intentionally distributing and possessing with intent to

12:14PM 13 distribute methamphetamine?

12:14PM 14 A Yes.

12:14PM 15 Q Doesn't say anything about conspiracy, does it?

12:14PM 16 A No.

12:14PM 17 Q All right. Now, let's move on to the third page. I'd

12:15PM 18 like to -- if you just focus your attention on paragraph two.

12:15PM 19 And when you are done, just let me know when you are finished

12:15PM 20 with that.

12:15PM 21 A I'm done.

12:15PM 22 Q All right. Sir, you are aware that your charge was a drug

12:15PM 23 sale that you made on February 9th of 2018, correct?

12:16PM 24 A I'm aware now.

12:16PM 25 Q And at that time, on August 14, 2018, that's what you were

12:16PM 1 arrested for, correct?

12:16PM 2 A Yes.

12:16PM 3 Q And so at that point, you knew that one drug sale on

12:16PM 4 February 9th of 2018 could get you ten years to life?

12:16PM 5 A I figured it out.

12:16PM 6 Q If we move to near the bottom, you also were then aware

12:16PM 7 that federal wiretaps had been on your phones from March 2018

12:16PM 8 to June 2018, correct?

12:16PM 9 A I'm aware of it now.

12:16PM 10 Q And they had been listening to you on your telephone with

12:17PM 11 all of your drug dealing, right?

12:17PM 12 A I'm aware of it now.

12:17PM 13 Q And so in addition to what we discussed earlier here, you

12:17PM 14 are looking at federal wiretap. They have your conversations

12:17PM 15 dealing drugs for several months, right?

12:17PM 16 MR. NAMMAR: Objection; no foundation for this.

12:17PM 17 THE COURT: There isn't.

12:17PM 18 By MR. KENNEDY:

12:17PM 19 Q You became aware when you received discovery that the

12:17PM 20 wiretaps were your phones, right?

12:17PM 21 A Yes.

12:17PM 22 Q And that in processing what you are going to do, you

12:17PM 23 signed a proffer agreement on August 14th of 2018, correct?

12:17PM 24 A I signed the agreement the day I got arrested.

12:17PM 25 Q Which was the day you got arrested, right?

12:18PM 1 A Yes.

12:18PM 2 Q You didn't enter your plea to any charge until 2020, more
12:18PM 3 than two years later, correct?

12:18PM 4 A Yes.

12:18PM 5 Q In between that time period, it was more than a year later
12:18PM 6 that you went in front of the grand jury, right?

12:18PM 7 A I think so.

12:18PM 8 Q And so the proffer agreement that you signed isn't a plea
12:18PM 9 agreement, correct?

12:18PM 10 A No.

12:18PM 11 Q What it is, is you can speak to the government and nothing
12:18PM 12 that you say during those meetings can be used against you,
12:18PM 13 right?

12:18PM 14 A Yes.

12:18PM 15 Q And so none of that can be used against you, right?

12:19PM 16 MR. NAMMAR: Objection; asked and answered.

12:19PM 17 THE COURT: Overruled, go ahead.

12:19PM 18 THE WITNESS: None of what?

12:19PM 19 By MR. KENNEDY:

12:19PM 20 Q What you say to them during the proffer agreement?

12:19PM 21 A That's what I'm told.

12:19PM 22 Q It can only be used against others?

12:19PM 23 MR. NAMMAR: Objection; misstates the agreement.

12:19PM 24 By MR. KENNEDY:

12:19PM 25 Q With one exception: You understood that it couldn't be

12:19PM 1 used against you, correct?

12:19PM 2 A I was told.

12:19PM 3 Q You understood it could be used against others, though,
12:19PM 4 right?

12:19PM 5 A I didn't understand it.

12:19PM 6 Q And the only way it could be used against you is if the
12:19PM 7 government deemed what you say to be untruthful?

12:19PM 8 MR. NAMMAR: Objection; misstates the agreement.

12:20PM 9 THE COURT: Overruled. You can answer.

12:20PM 10 THE WITNESS: What was the question?

12:20PM 11 By MR. KENNEDY:

12:20PM 12 Q You understood that it could be -- what you were saying
12:20PM 13 could be used against others, correct?

12:20PM 14 A Yes.

12:20PM 15 Q The only way it could be used against you is if the
12:20PM 16 government deems what you say to be untruthful?

12:20PM 17 A Yes.

12:20PM 18 Q Okay.

12:20PM 19 MR. KENNEDY: If we could pull up 9013-002 just for
12:20PM 20 the witness. It's also in the original exhibit list.

12:21PM 21 THE COURT: Okay, go ahead. I've got it.

12:21PM 22 By MR. KENNEDY:

12:21PM 23 Q Sir, do you recognize what is shown on the first page of
12:21PM 24 9013-002?

12:21PM 25 A Yes.

12:21PM 1 Q If we move to the second page. And the third page. And
12:21PM 2 the fourth page.

12:21PM 3 Do you recognize your signature?

12:21PM 4 A Yes.

12:21PM 5 Q And do you recognize the signatures as being done that day
12:21PM 6 when you signed?

12:21PM 7 A Yes.

12:21PM 8 Q All right. So now it is August 14, 2018 when you entered
12:22PM 9 into your proffer agreement, correct?

12:22PM 10 A Yes.

12:22PM 11 Q All right. So we can take that down.

12:22PM 12 Nico Carignan is somebody that we heard about in terms
12:22PM 13 of a robbery that you participated in, correct?

12:22PM 14 A Yes.

12:22PM 15 Q He also was one of your largest drug suppliers, right?

12:22PM 16 A Yes.

12:22PM 17 Q And he was your largest drug supplier at this time,
12:22PM 18 correct?

12:22PM 19 A Yes.

12:22PM 20 Q And so you robbed him, right?

12:22PM 21 A We robbed him.

12:22PM 22 Q Of his drugs?

12:22PM 23 A Yes.

12:22PM 24 Q In what you discussed to the jury, right?

12:22PM 25 A Yes.

12:22PM 1 Q Where cars came up, Norm Akau came out with a badge,
12:22PM 2 right?

12:22PM 3 A Um-hm.

12:22PM 4 Q He thought he was under arrest, and you got somewhere
12:23PM 5 between five to six pounds of ice?

12:23PM 6 A Yes.

12:23PM 7 Q Which Ashlin Akau set up, right?

12:23PM 8 A Yes.

12:23PM 9 Q Through Kurt Kipapa, right?

12:23PM 10 A Yes.

12:23PM 11 Q And the jury has heard all about that, right?

12:23PM 12 A I guess.

12:23PM 13 Q Heard it from you?

12:23PM 14 A Yes.

12:23PM 15 Q After you do that, then you start buying drugs from him as
12:23PM 16 well, right?

12:23PM 17 A Yes.

12:23PM 18 Q And so he becomes your main supplier, right?

12:23PM 19 A Yes.

12:23PM 20 Q And so on the 14th of August at that time, he is supplying
12:23PM 21 you drugs.

12:23PM 22 You're giving those drugs to Timmy Taboada for sale,
12:23PM 23 right?

12:23PM 24 A Yes.

12:23PM 25 Q You are getting the money back, right?

12:23PM 1 A Yes.

12:23PM 2 Q And you're making the profit, right?

12:23PM 3 A Yes.

12:23PM 4 Q And so at that time, you set up Nico Carignan, right?

12:24PM 5 A No.

12:24PM 6 Q Don't you make a bunch of phone calls to him?

12:24PM 7 A Well, yes, we do.

12:24PM 8 Q Don't you set up a drug deal with the FBI?

12:24PM 9 A Yes.

12:24PM 10 Q Don't you end up the next day having him arrested?

12:24PM 11 A I don't know if he got arrested or not, but yes.

12:24PM 12 Q You set up the drug deal, right?

12:24PM 13 A Yes.

12:24PM 14 Q So that's what you did to Nico Carignan, right?

12:24PM 15 A Yes.

12:24PM 16 Q You robbed him, right?

12:24PM 17 A Yes.

12:24PM 18 Q You bought from him, right?

12:24PM 19 A He fronted me.

12:24PM 20 Q And then you set him up to be arrested, correct?

12:24PM 21 A Correct.

12:24PM 22 Q Now, during that proffer interview that you did on

12:24PM 23 August 14th of 2018, you would agree with me that your memory

12:25PM 24 of events that had happened was sharper then than it is now,

12:25PM 25 six years later?

12:25PM 1 A Would I agree with you with what?

12:25PM 2 Q That your memory was better then of things that had just
12:25PM 3 happened than it is now?

12:25PM 4 A I mean, it's my memory then better of things --

12:25PM 5 Q That had just happened as opposed to six years later?

12:25PM 6 A Probably. I'm not sure.

12:25PM 7 Q So back to that sitting down with -- ATF was in the room,
12:25PM 8 right?

12:25PM 9 A I think so.

12:25PM 10 Q FBI was in the room, right?

12:25PM 11 A Yes.

12:25PM 12 Q Okay. And we established that when I started questioning
12:25PM 13 you, that basically Lindsey Kinney was about this distance from
12:25PM 14 you and that you fired a shot directly up in the air, right?

12:26PM 15 A I fired a shot.

12:26PM 16 Q You said in the air?

12:26PM 17 A I fired a warning shot in the air. In the air.

12:26PM 18 Q Okay. So what you told the FBI and the ATF on that
12:26PM 19 August 14, 2018, interview is that Mike Miske told you, told
12:26PM 20 John Stancil, and told Harry Kauhi to stay in their vehicles.

12:26PM 21 That's what you told them.

12:26PM 22 A Are you asking me a question?

12:26PM 23 Q Yes. That's what you said?

12:26PM 24 A I don't know if that's what I said.

12:26PM 25 MR. KENNEDY: Okay. Let's take a look at 9013-018,

12:26PM 1 which is in the original exhibit list as well.

12:26PM 2 THE COURT: Go ahead.

12:26PM 3 By MR. KENNEDY:

12:26PM 4 Q If we turn to page six, and we go down to the fourth

12:27PM 5 paragraph. And if you take a look at the second sentence.

12:27PM 6 Have you read that, sir?

12:27PM 7 A Yes.

12:27PM 8 Q All right. We can take it down. So what you told them is

12:27PM 9 that Mr. Miske told you, told John Stancil, and told Harry

12:27PM 10 Kauhi to stay in their vehicles?

12:27PM 11 A That's what it looks like but that's not what I said. He

12:27PM 12 could have got it wrong.

12:27PM 13 Q We will go through this.

12:27PM 14 You remember that this interview was audio recorded,

12:27PM 15 don't you?

12:27PM 16 A I don't remember.

12:27PM 17 Q Okay. All right. You told them, during that first

12:28PM 18 interview on August 14, 2018, that Mr. Miske and Lindsey Kinney

12:28PM 19 began squaring off as if they were about to fight.

12:28PM 20 Do you recall telling them that?

12:28PM 21 A That was the plan when we got there.

12:28PM 22 Q Okay. So you told them that, right?

12:28PM 23 A I told them what the plan was when we got there.

12:28PM 24 Q No. What I'm asking you, sir, is you -- your words were

12:28PM 25 that Mr. Miske and Mr. Kinney began squaring off as if they

12:28PM 1 were to fight.

12:28PM 2 A I said they were walking up to each other like they wanted
12:28PM 3 to fight.

12:28PM 4 Q But you were not sure if Miske was a good fighter; that's
12:28PM 5 what you told them?

12:28PM 6 A Yes.

12:28PM 7 Q You told them that you shot a round in the air as you
12:28PM 8 exited the vehicle, correct?

12:28PM 9 A Yes.

12:28PM 10 Q All right. And you shot it in the air just like you've
12:29PM 11 told the jury that, correct?

12:29PM 12 A Yes.

12:29PM 13 Q And so from August 14th of 2018, it's always been a shot
12:29PM 14 in the air, right?

12:29PM 15 A Yes.

12:29PM 16 Q Never any intent to hit Mr. Kinney; never any intent to
12:29PM 17 murder him, correct?

12:29PM 18 A No.

12:29PM 19 Q Never any intent to assault him with a gun?

12:29PM 20 A No.

12:29PM 21 Q And that Stancil, you, and Miske all ran to the vehicles
12:29PM 22 after your shot. That's what you told them.

12:29PM 23 A Yes.

12:29PM 24 Q And that all three vehicles then left the scene.

12:29PM 25 A Yes.

12:29PM 1 Q And you said that the firearm that you used is -- you got
12:29PM 2 from Wayne Miller, right?

12:29PM 3 A Yes.

12:29PM 4 Q It was a 40-caliber, right?

12:29PM 5 A Yes.

12:29PM 6 Q And that afterwards, you gave that firearm to Harry Kauhi,
12:30PM 7 right?

12:30PM 8 A Yes.

12:30PM 9 Q And did you eventually get it back?

12:30PM 10 A I believe I did, yes.

12:30PM 11 Q Okay. All right. Now, sticking with that incident, there
12:30PM 12 was a meeting that you had when I believe you and Harry Kauhi
12:30PM 13 were having lunch, right?

12:30PM 14 A Yes.

12:30PM 15 Q Prior to what we just discussed, right?

12:30PM 16 A Yes.

12:30PM 17 Q All right. And you ended up meeting with two individuals
12:30PM 18 with Harry, right?

12:30PM 19 A Yes.

12:30PM 20 Q Zeph Salas?

12:30PM 21 A Yeah, he was there.

12:30PM 22 Q And Norman Akau?

12:31PM 23 A Yes, I met with Norm.

12:31PM 24 Q Right. And when you met with Norm, you understood that
12:31PM 25 Zeph Salas was a member of Nakipi Motorcycle Club, right?

12:31PM 1 A Yes.

12:31PM 2 Q That Norm Akau was a member of Nakipi Motorcycle Club,
12:31PM 3 correct?

12:31PM 4 A Yes.

12:31PM 5 Q That the president was Norm Akau, right?

12:31PM 6 A Yes.

12:31PM 7 Q And Zeph Salas was a founder of that motorcycle club,
12:31PM 8 correct?

12:31PM 9 A I just knew Zeph was up there in the club. I didn't know
12:31PM 10 all the spots and stuff.

12:31PM 11 Q And you knew that Norm Akau was a USO family member,
12:31PM 12 correct?

12:31PM 13 A I heard about it. I didn't pay much attention to it.

12:31PM 14 Q And you knew he remained an USO family member when he left
12:31PM 15 prison, correct?

12:31PM 16 A I knew he was a USO. I heard he was an USO.

12:32PM 17 Q Right. It isn't just a prison gang, is it?

12:32PM 18 A It isn't just a prison gang?

12:32PM 19 Q Right. It exists on the outside as well, and you know
12:32PM 20 that, correct?

12:32PM 21 A No. To me it was.

12:32PM 22 Q So you've mentioned La Familia being just a prison gang,
12:32PM 23 right?

12:32PM 24 A Yes.

12:32PM 25 Q But it's hard to have a website in prison, isn't it?

12:32PM 1 A Yeah, it's hard to have a website.

12:32PM 2 Q And so there is a La Familia website on the outside,

12:32PM 3 right?

12:32PM 4 A Was there a La Familia website.

12:32PM 5 Q Yeah.

12:32PM 6 A I don't know if there was a La Familia website.

12:32PM 7 Q Oh, so you didn't post messages on La Familia website?

12:32PM 8 A On a La Familia website?

12:32PM 9 Q Yes?

12:32PM 10 A No.

12:32PM 11 Q You didn't?

12:32PM 12 A There is no La Familia website.

12:32PM 13 Q All right. So now, when -- are you aware that when the

12:33PM 14 wiretaps against you were brought, that the international gang

12:33PM 15 was identified to be La Familia of which you were a part?

12:33PM 16 A You got to repeat the question.

12:33PM 17 Q Were you aware that when the -- were you aware that when

12:33PM 18 the wiretaps were obtained, the organization listed, which

12:33PM 19 included you, was La Familia?

12:33PM 20 MR. NAMMAR: Objection; vague.

12:33PM 21 THE COURT: Sustained.

12:33PM 22 By MR. KENNEDY:

12:33PM 23 Q You weren't aware that they were targeting La Familia,

12:33PM 24 including you?

12:33PM 25 A No, I wasn't aware of that.

12:33PM 1 Q All right. Now, at that meeting with Zeph Salas and Norm
12:33PM 2 Akau, you were given an order to deal with Lindsey Kinney,
12:34PM 3 weren't you?

12:34PM 4 A At the meeting I was given an order to deal with Lindsey
12:34PM 5 Kinney?

12:34PM 6 Q Yes. By Zeph Salas?

12:34PM 7 A No, not from Zeph Salas, no.

12:34PM 8 Q He gave you an order to take care of him, right?

12:34PM 9 A No, he didn't.

12:34PM 10 Q Because Lindsey Kinney had been kicked out of Nakipi
12:34PM 11 Motorcycle Club?

12:34PM 12 A Why would Zeph give me an order? I'm not in Nakipi.

12:34PM 13 Q Because he is in USO and so were you.

12:34PM 14 A No, that's not even close to being true.

12:34PM 15 Q And so you were in a position to carry it out, right?

12:34PM 16 A No, I was in a position to carry it out because of Mike.

12:34PM 17 Q We will go through it, but other than a shot in the air as
12:34PM 18 a warning shot, that's the only thing that's ever happened to
12:34PM 19 Lindsey Kinney, correct?

12:34PM 20 A I don't know. I don't know what else has happened to
12:35PM 21 Lindsey Kinney.

12:35PM 22 Q Well, let's talk about it. What triggered it, you know,
12:35PM 23 was Lindsey Kinney was posting on social media that Mike Miske
12:35PM 24 was responsible for killing his own son?

12:35PM 25 A Lindsey was posting a lot of stuff on social media.

12:35PM 1 Q That was one of it, right?

12:35PM 2 A I don't got social media. I don't got Instagram.

12:35PM 3 Q Well, you sure knew -- if we took a look at the one, I
12:35PM 4 guess it's -- let's see. I think I wrote the number down. The
12:35PM 5 jury has page 387 of that long-winded text messages.

12:35PM 6 Lindsey Kinney was posting messages about you killing
12:35PM 7 someone in an apartment, which was crazy, right?

12:35PM 8 A I don't know exactly whatever he was posting, but he
12:36PM 9 posted a lot of crazy stuff.

12:36PM 10 Q Okay, well, let's take a look. I think this was 1-953.
12:36PM 11 And if we go to page 387, kind of reading it as we went along.
12:36PM 12 If we pull up the bottom one and make that larger.

12:36PM 13 MR. KENNEDY: And can we publish it now since it's in
12:36PM 14 evidence.

12:36PM 15 THE COURT: All right.

12:36PM 16 By MR. KENNEDY:

12:36PM 17 Q Now that we have certainly found the right one.

12:36PM 18 This is a message from you, correct?

12:37PM 19 A Yes.

12:37PM 20 Q To Mike Miske, right?

12:37PM 21 A Yes.

12:37PM 22 Q "Brah, this dumb ass saying I killed this boy at the
12:37PM 23 apartments last night, this fucking idiot. And that boy was my
12:37PM 24 friend. His sister, them all my friend," right?

12:37PM 25 A Yes.

12:37PM 1 Q This is an example of what Lindsey Kinney was posting,
12:37PM 2 right?
12:37PM 3 A An example, yeah.
12:37PM 4 Q And you said he was crazy, right?
12:37PM 5 A Yes.
12:37PM 6 Q He was posting stuff about beheading people, right?
12:37PM 7 A Yes.
12:37PM 8 Q He was posting things about attacking our governor, right?
12:37PM 9 A Yes.
12:37PM 10 Q He was posting all kinds of crazy stuff, right?
12:37PM 11 A Yes.
12:37PM 12 Q And included in that, he was just bombing Mike Miske with
12:37PM 13 things about being responsible for his son's death at that
12:37PM 14 time, right?
12:37PM 15 A I think so --
12:37PM 16 Q And that's when Mike snapped, right?
12:37PM 17 THE COURT: I didn't hear the witness's response.
12:37PM 18 MR. KENNEDY: And that is my mistake, Your Honor.
12:38PM 19 THE COURT: I think the record caught part of it.
12:38PM 20 Mr. Smith, the question was: "And included in that, he was
12:38PM 21 just bombing Mike Miske with things about being responsible for
12:38PM 22 his son's death at that time, right?" And your response was:
12:38PM 23 "I think so." And there were more words after that that we did
12:38PM 24 not capture.
12:38PM 25 THE WITNESS: I think so. He was talking a lot and

12:38PM 1 posting a lot of crazy stuff.

12:38PM 2 By MR. KENNEDY:

12:38PM 3 Q And so if we go to page 28 and 29 of what is this exhibit,
12:38PM 4 which is, I believe it's 1-593.

12:38PM 5 THE COURT: 953?

12:38PM 6 By MR. KENNEDY:

12:38PM 7 Q If we go and we just blow up the first one, "You seen what
12:38PM 8 he was saying about me killing my own son."

12:38PM 9 A Yes.

12:38PM 10 Q Do you see that?

12:38PM 11 A Yes.

12:39PM 12 MR. KENNEDY: Okay. Why don't we publish it now that
12:39PM 13 we have got the right --

12:39PM 14 THE COURT: You're speaking of 1-953, correct?

12:39PM 15 MR. KENNEDY: Yes, yes.

12:39PM 16 THE COURT: Go ahead.

12:39PM 17 By MR. KENNEDY:

12:39PM 18 Q Just dealing with what we have looked at today, and this
12:39PM 19 continued on.

12:39PM 20 We are now in December 16th of 2017, correct?

12:39PM 21 A Yes.

12:39PM 22 Q The incident at Kualoa Ranch was in March -- May, excuse
12:39PM 23 me, I misspoke; May of 2017, May 23rd, if I recall.

12:39PM 24 And he's still posting, correct?

12:39PM 25 A Yes.

12:39PM 1 Q And if we move to page 29 of this document, then there is
12:39PM 2 an attachment, right?

12:40PM 3 A Yes.

12:40PM 4 Q And so he's still posting images at this point, right?

12:40PM 5 A Yes.

12:40PM 6 Q So that's what was going on back in May of 2017, correct?

12:40PM 7 A I don't know what was going on in May 2017.

12:40PM 8 Q Well, you knew that Mike snapped over this, correct?

12:40PM 9 A Yes.

12:40PM 10 Q All right. Now, we can take that down. You and Lindsey
12:40PM 11 had a relationship, right?

12:40PM 12 A I knew Lindsey.

12:40PM 13 Q You knew Lindsey because he had fronted you drugs, right?

12:40PM 14 A Yes.

12:40PM 15 Q Lindsey was one of your suppliers, right?

12:40PM 16 A He gave me drugs for a little while.

12:40PM 17 Q So he gave you drugs on two or three occasions, right?

12:40PM 18 A Yes.

12:40PM 19 Q Pound quantities, right?

12:40PM 20 A Yes.

12:40PM 21 Q And he fronted them to you, right?

12:41PM 22 A Yes.

12:41PM 23 Q And you discussed that over the last three days; that
12:41PM 24 means you didn't have to pay, right?

12:41PM 25 A Yes.

12:41PM 1 Q So you got the drugs, right?

12:41PM 2 A Yes.

12:41PM 3 Q You gave it to someone to sell or did you sell it

12:41PM 4 yourself?

12:41PM 5 A I gave it to somebody to sell.

12:41PM 6 Q You gave it to Mr. Taboada?

12:41PM 7 A Yes.

12:41PM 8 Q And then he sold it, right?

12:41PM 9 A Um-hm.

12:41PM 10 Q And you get the money, right?

12:41PM 11 A Yes.

12:41PM 12 Q And normally what you have to do is you have to pay the

12:41PM 13 person who you bought them from, right?

12:41PM 14 A Yes.

12:41PM 15 Q But what you were doing at the time was robbing people

12:41PM 16 rather than paying them, right?

12:41PM 17 A No. I'm not robbing people every day. Sometimes I was

12:41PM 18 paying them.

12:41PM 19 Q Sometimes you were paying them but you hadn't paid Lindsey

12:41PM 20 Kinney, right?

12:41PM 21 A Yes.

12:41PM 22 Q Because he was in Las Vegas, right?

12:41PM 23 A Yes.

12:41PM 24 Q And you knew him to have a really good supplier in Las

12:41PM 25 Vegas, right?

12:41PM 1 A I knew he was in Vegas grabbing dope.

12:41PM 2 Q And so you weren't going to pay him, right?

12:41PM 3 A I was going to pay him, but he started talking crazy to

12:42PM 4 me.

12:42PM 5 Q Right. And so then he started talking crazy about you,

12:42PM 6 right?

12:42PM 7 A Yeah.

12:42PM 8 Q And that was your motivation that day, correct?

12:42PM 9 A That wasn't my motivation. I was eating lunch.

12:42PM 10 Q And that's when you spoke with Zeph and you spoke with

12:42PM 11 Norm, correct? After you got done eating lunch?

12:42PM 12 A Yeah, I think so.

12:42PM 13 Q Okay. And so just to deal with what we saw today, at no

12:42PM 14 point did you ever assault Lindsey Kinney?

12:42PM 15 A No.

12:42PM 16 Q At no point did that ever happen, right?

12:42PM 17 MR. NAMMAR: Objection; asked and answered.

12:42PM 18 THE COURT: Go ahead. Overruled; go ahead.

12:42PM 19 By MR. KENNEDY:

12:42PM 20 Q Correct?

12:42PM 21 A Correct.

12:43PM 22 Q The closest it ever got was there was a text message that

12:43PM 23 said you wanted to square up with him, and he ran away, right?

12:43PM 24 A Yes.

12:43PM 25 Q And in those text messages, what's being communicated,

12:43PM 1 there was some conversation about getting it on camera, right?

12:43PM 2 A Yes.

12:43PM 3 Q Because Lindsey was talking about how he was going to kill

12:43PM 4 you, kill Mike, do all this damage, right?

12:43PM 5 A Yes.

12:43PM 6 Q So he was talking big on social media, right?

12:43PM 7 A Yes.

12:43PM 8 Q And at the same time he was talking about how Mike's

12:43PM 9 responsible for the death of his son, right?

12:43PM 10 A Yes.

12:43PM 11 Q And what you wanted to do, which is let's go straight up,

12:43PM 12 you and me, right, and have a fight, right?

12:43PM 13 A I wanted to do it however Mike wanted us to do it.

12:43PM 14 Q You wanted to do it for your own sake?

12:43PM 15 A I wanted to do it however Mike wanted us to do it. If I

12:43PM 16 wanted to do it for my own sake, I would have did it already.

12:43PM 17 Q And so what it was, you saw efforts to take down his IG

12:44PM 18 account, right?

12:44PM 19 A Did I see efforts to take it down?

12:44PM 20 Q Yes.

12:44PM 21 A Yeah.

12:44PM 22 Q And so what it was going to be was, if you can get it on

12:44PM 23 film, right?

12:44PM 24 A Yes.

12:44PM 25 Q Then -- what he is boasting about can be shown not to be

12:44PM 1 true, right?

12:44PM 2 A Yeah.

12:44PM 3 Q And so that way, you could take down the social media
12:44PM 4 bully, right?

12:44PM 5 A I don't know how we were taking down anything. That's all
12:44PM 6 up to Mike.

12:44PM 7 Q All you needed to do is if you had a camera, somebody
12:44PM 8 would film it, you're squaring up with him, he runs away. You
12:44PM 9 post it, then his words don't have any meaning anymore, right?

12:44PM 10 A I'm not sure. I don't know.

12:44PM 11 Q Okay. Now, you gave some testimony over the last few days
12:45PM 12 about the District and Ginza, correct?

12:45PM 13 A Yes.

12:45PM 14 Q And I believe you mentioned your testimony was something
12:45PM 15 about going to John Stancil's house to obtain it on the first
12:45PM 16 night, correct?

12:45PM 17 A Whatever night we went there. We went there one of the
12:45PM 18 nights.

12:45PM 19 Q And going there on the second night, correct?

12:45PM 20 A We went there on one of the nights.

12:45PM 21 Q All right. And that's what you told the jury over these
12:45PM 22 days, correct?

12:45PM 23 A Yes.

12:45PM 24 Q Now, on August 14th of 2018, you said that Kaulana Freitas
12:45PM 25 approached you regarding a plan to drop fume chemicals,

12:45PM 1 correct?

12:45PM 2 A Yes.

12:45PM 3 Q The chemical was contained in a clear, squeezable

12:46PM 4 ketchup-style bottle, correct?

12:46PM 5 A Yes.

12:46PM 6 Q After Kaulana went into the club, a large portion of the

12:46PM 7 chemical still remained in the bottle; only a small amount of

12:46PM 8 the chemical was used.

12:46PM 9 That's what you told them, right?

12:46PM 10 A I think so.

12:46PM 11 Q And that Kaulana Freitas then gave you the bottle for the

12:46PM 12 use the following evening, correct?

12:46PM 13 A Yes.

12:46PM 14 Q You stored the bottle in your vehicle for the following

12:46PM 15 night at Ginza, correct; that's what you told them?

12:46PM 16 A I don't know.

12:46PM 17 MR. KENNEDY: Let's take a look at 9013-018.

12:46PM 18 THE COURT: Go ahead.

12:47PM 19 By MR. KENNEDY:

12:47PM 20 Q Go to page eight. Paragraph two. Take that one down.

12:47PM 21 Okay. Let me see. Okay. We can bring that back up. Just

12:47PM 22 that one paragraph.

12:47PM 23 Do you see the third line? Just read that to

12:47PM 24 yourself.

12:47PM 25 A Yes.

12:47PM 1 Q We can take that down. And that you stored the bottle
12:47PM 2 containing the chemical in your vehicle for the following
12:47PM 3 night, correct; that's what you told them?
12:47PM 4 A That's what it says.
12:48PM 5 Q And then you identified the Jagermeister bottle that was
12:48PM 6 obtained about three weeks later as what you had left from what
12:48PM 7 Kaulana Freitas gave you, correct?
12:48PM 8 A The Jagermeister bottle was dumped in a -- whatever was
12:48PM 9 left, it got dumped in a Jagermeister bottle.
12:48PM 10 Q At no point did you tell them anything about going to John
12:48PM 11 Stancil's house either on the first night or the second night,
12:48PM 12 correct?
12:48PM 13 A I did tell them about going to John Stancil house the
12:48PM 14 first or second night.
12:48PM 15 Q Not during that interview?
12:48PM 16 A That's a summary.
12:48PM 17 Q As I said, you recall that; that was audio recorded?
12:48PM 18 A I don't recall if it was or if it wasn't.
12:48PM 19 Q All right. Now, I want to talk to you a little bit
12:49PM 20 about -- because we have got about ten minutes left to today.
12:49PM 21 You've talking about an individual by the name of
12:49PM 22 Wayne Miller, correct?
12:49PM 23 A Yes.
12:49PM 24 Q All right. And to back up, in 2013 is when this
12:49PM 25 first-degree burglary incident happened, right?

12:49PM 1 A What first-degree burglary incident?

12:49PM 2 Q The one that you became a felon in, in 2015?

12:49PM 3 A Yes.

12:49PM 4 Q And so with respect to that, you began cooperating right

12:49PM 5 away, right?

12:49PM 6 A I think so.

12:49PM 7 Q Yeah. And you were allowed the opportunity to do a

12:50PM 8 deferred plea, right?

12:50PM 9 A Yes.

12:50PM 10 Q So you were given a chance to cooperate, do a deferred

12:50PM 11 plea, and you wouldn't have a felony, right?

12:50PM 12 A I think so. I don't know how it worked exactly.

12:50PM 13 Q But then I think you told the authorities that you, at the

12:50PM 14 age of 19, started obtaining methamphetamine from Harry Kauhi,

12:50PM 15 right?

12:50PM 16 A Sometimes.

12:50PM 17 Q And so by 2015, you entered your plea of guilty to the

12:50PM 18 first degree burglary of a dwelling, correct?

12:50PM 19 A I think so.

12:50PM 20 Q All right. Now, then I believe you had to do about six

12:50PM 21 months of time locally at -- was it at OCCC?

12:50PM 22 A Yes.

12:50PM 23 Q All right. And then you were released in 2015; is that

12:51PM 24 correct?

12:51PM 25 A Yes.

12:51PM 1 Q All right. When you got out, you went to Wayne Miller to
12:51PM 2 get a car, right?
12:51PM 3 A Yes.
12:51PM 4 Q And Wayne Miller is the one who really introduced you to
12:51PM 5 John Stancil, right?
12:51PM 6 A Kind of.
12:51PM 7 Q Okay. And then when you started, you were with Wayne
12:51PM 8 Miller and you were with John Stancil, correct?
12:51PM 9 A When I started what?
12:51PM 10 Q When you were released in 2015 in the fall?
12:51PM 11 A Was I with them when I was released? I was with them
12:51PM 12 sometimes.
12:51PM 13 Q Yeah. And so you remember that the accident involving
12:51PM 14 Caleb Miske happened in November of 2015, right?
12:51PM 15 A I don't remember when the accident happened.
12:51PM 16 Q All right.
12:51PM 17 A I wasn't close enough to the group at the time. I don't
12:51PM 18 remember the date of the accident.
12:51PM 19 Q And Wayne Miller then was someone that, during this time
12:52PM 20 period, 2015, '16, '17, and '18, you were obtaining firearms
12:52PM 21 from, right?
12:52PM 22 A Sometimes.
12:52PM 23 Q And Wayne Miller is the person you were with when the two
12:52PM 24 of you were doing surveillance that time on the union guy,
12:52PM 25 correct?

12:52PM 1 A Yes.

12:52PM 2 Q And it was Wayne Miller's GPS egg that we saw during your
12:52PM 3 testimony here, correct?

12:52PM 4 A I don't know. I don't know whose GPS it was.

12:52PM 5 Q And it was Wayne Miller who, when you were there with him,
12:52PM 6 he called you off on doing anything with Mr. Calles, correct?

12:52PM 7 A Yes.

12:52PM 8 Q Now, with respect to Wayne Miller, it was Wayne Miller who
12:52PM 9 was there with you, with Mr. Ryan Teramoto at the golf course
12:52PM 10 outside of -- between Kailua and Waimanalo, correct?

12:53PM 11 A Yes.

12:53PM 12 Q And it was Wayne Miller who was there when you went over
12:53PM 13 to Mr. Teramoto's house, right?

12:53PM 14 A Yes.

12:53PM 15 Q And with respect to Mr. Teramoto, during this entire time,
12:53PM 16 there has never been an assault with Mr. Teramoto, correct?

12:53PM 17 A No.

12:53PM 18 Q Nothing ever happened with that, right?

12:53PM 19 A No.

12:53PM 20 Q Now, with respect to Wayne Miller, you mentioned a meeting
12:53PM 21 that you had with -- you were hanging out over at Norm Akau's
12:53PM 22 house, right?

12:53PM 23 A Yes.

12:53PM 24 Q And I believe Norm Akau was someone who was pretty
12:53PM 25 proficient with making additions to firearms, right?

12:53PM 1 A Yes.

12:53PM 2 Q And so the silencer that Norm had with him when you and he
12:54PM 3 and others robbed Nico Carignan came from Norm Akau, right?

12:54PM 4 A I would think so.

12:54PM 5 Q I think you said he had with him that day a 22 with a
12:54PM 6 silencer, right?

12:54PM 7 A Yes.

12:54PM 8 Q And the government lawyer asked you questions and you said
12:54PM 9 that he demonstrated it by shooting it in Waimanalo, right?

12:54PM 10 A Yes.

12:54PM 11 Q Okay. Now, and it was Wayne Miller who, in August 1,
12:54PM 12 2018, we heard about getting arrested for that drug sale,
12:54PM 13 correct?

12:54PM 14 A Yes.

12:54PM 15 Q Now, were you aware that Wayne Miller, when you were at
12:54PM 16 Norm Akau's house, was an FBI informant?

12:54PM 17 A I was not.

12:54PM 18 Q All right. But you were aware that when you got to the
12:54PM 19 federal detention center, he was there, right?

12:54PM 20 A Yes.

12:54PM 21 Q You were there, right?

12:55PM 22 A Yes.

12:55PM 23 Q And you had an opportunity to talk with him, didn't you?

12:55PM 24 A We were in the SHU. We were separated but we talked.

12:55PM 25 Q Right. And in fact I believe -- and so when you were in

12:55PM 1 the SHU together, you and Mr. Miller discussed how you were on
12:55PM 2 the same side of the fence right now, and that you were going
12:56PM 3 to sink Mike Miske?

12:56PM 4 A You telling me or are you asking me?

12:56PM 5 Q I asked you the question.

12:56PM 6 A I don't recall what we talked about at that time.

12:56PM 7 Q You didn't say to the -- under oath that we are all right,
12:56PM 8 he is -- I mean -- I guess -- I'm guessing he is on the same
12:56PM 9 side of the fence as me right now because he is telling me to
12:56PM 10 sink Mike?

12:56PM 11 A I could have.

12:56PM 12 Q You could have given that testimony under oath, correct?

12:56PM 13 A Yes.

12:56PM 14 MR. KENNEDY: Your Honor, I've got nothing more for
12:56PM 15 today.

12:56PM 16 THE COURT: Nothing more for today? We have got a few
12:56PM 17 more minutes.

12:56PM 18 MR. KENNEDY: Okay. You want me to continue, I'll do
12:56PM 19 it for a couple more minutes for today.

12:56PM 20 By MR. KENNEDY:

12:56PM 21 Q Now, the jury has seen the street sweeper.

12:57PM 22 Do you know what I'm referring to?

12:57PM 23 A Yes.

12:57PM 24 Q Okay. So they have seen it enough times. On that

12:57PM 25 August 14, 2018 interview, you and Dayson Kaae received that

12:57PM 1 street sweeper shotgun with the drum magazine from Kaae's

12:57PM 2 brother's friend, right?

12:57PM 3 A Yes.

12:57PM 4 Q And it's sort of like a collector's item, right? You

12:57PM 5 didn't shoot it, did you?

12:57PM 6 A No.

12:57PM 7 Q And your plan was that you and Kaae intended to sell the

12:57PM 8 street sweeper shotgun and split the profits, right?

12:57PM 9 A Yes.

12:57PM 10 Q And that's how you acquired it, right?

12:57PM 11 A Yes. It was from Dayson's brother and Dusky Boy's

12:57PM 12 friends.

12:57PM 13 Q And so it was given to Dayson, right?

12:58PM 14 A It was given to me and Dayson over there. It was given to

12:58PM 15 me.

12:58PM 16 Q What you wanted to do with it was to sell it, make money,

12:58PM 17 right?

12:58PM 18 A Yes.

12:58PM 19 Q And we have seen that, the jury has seen it, and we went

12:58PM 20 over this during the days that you were in a stolen car, right?

12:58PM 21 A Yes.

12:58PM 22 Q You went into the barber shop, right?

12:58PM 23 A Yes.

12:58PM 24 Q Dayson Kaae went in there with you, right?

12:58PM 25 A Yes.

12:58PM 1 Q Unbeknownst to you, the person who owned the car spotted

12:58PM 2 it, and so HPD came, correct?

12:58PM 3 A Yes.

12:58PM 4 Q You had taken a bag in that had your drugs there, correct?

12:58PM 5 A Yes.

12:58PM 6 Q So you took the drugs in to the barber shop, right?

12:58PM 7 A Yes.

12:58PM 8 Q When you came out without the drugs is when you were

12:58PM 9 arrested and placed on the curb, right?

12:58PM 10 A Yes.

12:58PM 11 Q And we saw that photograph, right?

12:58PM 12 A Yes.

12:58PM 13 Q Dayson was also questioned, right?

12:58PM 14 A Yes.

12:58PM 15 Q The end result was the two of you were let go, right?

12:59PM 16 A Yes.

12:59PM 17 Q And then you were able to go back in the barber shop and

12:59PM 18 obtain the drugs?

12:59PM 19 A Yes.

12:59PM 20 Q Now, during that August 14, 2018 proffer interview, some

12:59PM 21 questions were asked about Alen Kaneshiro, the lawyer.

12:59PM 22 Do you recall that?

12:59PM 23 A Yes.

12:59PM 24 Q All right. And you told them that Mr. Miske told you that

12:59PM 25 Alen Kaneshiro was a good friend of his, right?

12:59PM 1 A Yes.

12:59PM 2 Q And if you were ever to have legal trouble, you should

12:59PM 3 contact him.

12:59PM 4 A Yes.

12:59PM 5 Q That's what you told them.

12:59PM 6 A Yes.

12:59PM 7 Q You were not sure if Mr. Miske ever paid Mr. Kaneshiro to

12:59PM 8 represent you; that's what you told them.

12:59PM 9 A So I didn't see him pay him.

12:59PM 10 Q Okay. But you paid for his services?

01:00PM 11 A Towards the end.

01:00PM 12 Q All right. Do you realize you were on an installment

01:00PM 13 payment plan with him?

01:00PM 14 A I don't know what kind of payment plan I was on with him.

01:00PM 15 I would pay him sometimes at the end; that was it.

01:00PM 16 Q So you weren't sure, on August 14, 2018, when he was

01:00PM 17 representing you, whether Mr. Miske had ever paid him, correct?

01:00PM 18 A I know he paid him. I didn't see him pay him, but I know

01:00PM 19 he paid him in the beginning.

01:00PM 20 Q And on the day you were arrested, both Mr. Alen Kaneshiro

01:00PM 21 and Mr. Collins came to you, right?

01:00PM 22 A Mr. Kaneshiro didn't.

01:00PM 23 Q He wasn't there on the 14th? He didn't meet with the two

01:00PM 24 of you?

01:00PM 25 A No.

01:00PM 1 Q Mr. Collins and Mr. Kaneshiro?

01:00PM 2 A He didn't meet with me.

01:00PM 3 Q He didn't then leave?

01:00PM 4 A I didn't see him. He didn't come see me.

01:00PM 5 Q Okay.

01:01PM 6 THE COURT: Is this a good stopping point?

01:01PM 7 MR. KENNEDY: It is, Your Honor.

01:01PM 8 THE COURT: All right. So we will go ahead and take
01:01PM 9 our leave for the trial day. As I said, we would finish up a
01:01PM 10 few minutes early. As we go to break for the trial day, I'll
01:01PM 11 remind our jurors to please refrain from discussing the
01:01PM 12 substance of this case with anyone, including each other; to
01:01PM 13 refrain from accessing any media or other accounts of this case
01:01PM 14 that may be out there; and finally, please do not conduct any
01:01PM 15 investigation of your own into the facts, circumstances, or
01:01PM 16 persons involved. We will start tomorrow morning at 8:30.

01:01PM 17 There is just one housekeeping thing I want to discuss
01:01PM 18 with counsel. So please remain, just for a couple of minutes.

01:01PM 19 (At 1:01 p.m., the jury was excused, and the following
01:01PM 20 proceedings were held:)

01:02PM 21 THE COURT: Mr. Smith, you may step down. You may be
01:02PM 22 seated. Thank you.

01:02PM 23 Just one housekeeping issue. So we were talking about
01:02PM 24 6023-55. That's an exhibit that Mr. Kennedy excerpted from.
01:02PM 25 There are a number of pages, many more than we discussed during

01:02PM 1 Mr. Smith's examination. Several of those pages were admitted,
01:02PM 2 I think largely without objection if not exclusively without
01:02PM 3 objection.

01:02PM 4 Those pages being -- let me make sure I have got this
01:03PM 5 right: 55, 56, 58, 59, 60, 67, 81, 95, 102, and 149. This is
01:03PM 6 again of 6023 -- Defendant's Exhibit 6023. So those pages need
01:03PM 7 to be dealt with in terms of placing them in a new exhibit
01:03PM 8 number.

01:03PM 9 Mr. Kennedy, I think you suggested that you could mark
01:03PM 10 them as 6023A, B, C, etcetera. The only issue with that is
01:03PM 11 there is already a 6023A. So that wouldn't work. You could
01:03PM 12 start with B and proceed from there. You could mark them, all
01:03PM 13 of the numbers I just mentioned as a single Exhibit 6023B.
01:03PM 14 That might be the easiest thing.

01:03PM 15 Whatever you choose to do, let's get that cleaned up
01:04PM 16 by tomorrow before Ms. Kimura so we can get that updated in the
01:04PM 17 binders. Any issues?

01:04PM 18 MR. NAMMAR: No, Your Honor.

01:04PM 19 MR. KENNEDY: Your Honor, I think 58 may also, and 60.

01:04PM 20 THE COURT: If I didn't mention that.

01:04PM 21 MR. KENNEDY: 60 was mentioned.

01:04PM 22 THE COURT: Let me try that again. 6023, it would be
01:04PM 23 55, 56, 58, 59, 60, 67, 81, and 95, 102, and 149.

01:04PM 24 MR. KENNEDY: Oh, 68. Okay. Let me look at my notes.
01:04PM 25 Your Honor.

01:04PM 1 MR. NAMMAR: 68 is not in.

01:05PM 2 THE COURT: I don't recall it being offered.

01:05PM 3 MR. KENNEDY: Without looking at the picture, I have a

01:05PM 4 hard time looking at the number. But we will get it

01:05PM 5 straightened out. We will take up the 6023B suggestion.

01:05PM 6 THE COURT: Good enough. We will see you tomorrow.

01:05PM 7 (Proceedings were concluded at 1:05 p.m.)

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1 COURT REPORTER'S CERTIFICATE

2 I, Gloria T. Bediamol, Official Court Reporter, United
3 States District Court, District of Hawaii, do hereby certify
4 that pursuant to 28 U.S.C. §753 the foregoing is a complete,
5 true, and correct transcript from the stenographically reported
6 proceedings held in the above-entitled matter and that the
7 transcript page format is in conformance with the regulations
8 of the Judicial Conference of the United States.

9

10 DATED at Honolulu, Hawaii, May 28, 2024.

11

12

13 /s/ Gloria T. Bediamol

14 GLORIA T. BEDIAMOL.

15 RMR, CRR, FCRR

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